March 2025

TAXADVISER

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A new residence-based system

From 6 April 2025, the scope of inheritance tax is about to be significantly extended both for long-term residents and individuals leaving the UK

Pre-nuptial agreements

How to protect family assets from potential division in the case of divorce

R&D tax relief

The impact of whether activities are subcontracted or subsidised

How to sell your practice

Tips to maximise your sales price and protect yourself against liabilities

HELEN WHITEMAN JANE ASHTON

Welcome
Many things to focus on!

It is not uncommon in the March edition of *Tax Adviser* for us to be making some comment about an upcoming Budget and the work that the CIOT and ATT are doing around Budget representations. However, at the time of writing, there has been no announcement of a Budget so far. The Labour Party made it clear in its manifesto that it was 'committed to one major fiscal event a year, giving families and businesses due warning of tax and spending policies'. Whilst this will come as a relief for many members and their clients, how one defines a 'major fiscal event' is still up for debate – and we may well see some Spring announcements sprung upon us.

Readers will be aware that the government has given HMRC three priorities to focus on – improving their customer service for taxpayers; modernising and reforming their offering; and closing the tax gap. HMRC's poor customer service standards have come under criticism for some time now, and this has been further hampered by industrial action within HMRC. This action was expected to last from 23 December 2024 until 14 February 2025; however, in early February we were advised that it would continue until 14 March.

The action affects the Employer Services phone lines, including the Employer Helpline and the Construction Industry Scheme (CIS) Helpline. Both these helplines continue to operate from 8am to 6pm, though we have been warned to be prepared for longer wait times. No other services are expected to be impacted. Let us hope that 'normal' service is resumed on 14 March. If you have had difficulty contacting HMRC on either of these services, we would like to hear about your experiences.

Modernising and reforming HMRC's offering includes work undertaken as part of a ten year tax administration framework review, and the Making Tax Digital initiatives which will be rolled out to Income Tax Self Assessment from April 2026.

On Wednesday 2 April, the ATT is holding the first of its bi-annual virtual Fellows Webinars. These are free events which provide a unique opportunity for all Fellows to enjoy the company of members of similar standing within the Association. The main talk will be provided by Technical Officers Steven Pinhey and Helen Thornley, who will be looking at the third aspect that the government has asked HMRC to focus on – understanding the tax gap. The talk will be followed by a choice of three interactive breakout sessions on: fiscal event/Budget reflections and wish lists; how your MTD preparations are going; and members' views on HMRC's digital roadmap. Find out more and book your place at tinyurl.com/4ekt6cth.

Other dates to note are Wednesday 23 and Thursday 24 April, when the CIOT will be hosting its Spring Virtual Conference. The conference provides topical lectures by leading tax speakers, flexible access to all the conference materials and recordings, and an opportunity to increase your CPD. This year will include presentations on R&D tax relief, employee ownership trusts, capital allowances and OMB exit planning in 2025/26 and beyond. You can find out more about the event and register at www.tax.org.uk/svc2025.

Looking further ahead, on Wednesday 4 June the ATT & CIOT will be holding a members' Tax Technology Conference in Birmingham, where we will be exploring the latest advancements and best practices in AI and technology in taxation. This is a fast developing area and is designed for those who are new to AI and tax technology, as well as those already implementing these advancements. The conference will provide an engaging experience with keynote speakers, panel discussion, interactive breakout sessions and a demonstration/exhibition area for networking and knowledge sharing. The conference covers the whole day, and you can find out more about the conference and book your place at www.tax.org.uk/tax-technology-conference-2025. We look forward to seeing you there!

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CONTENTS

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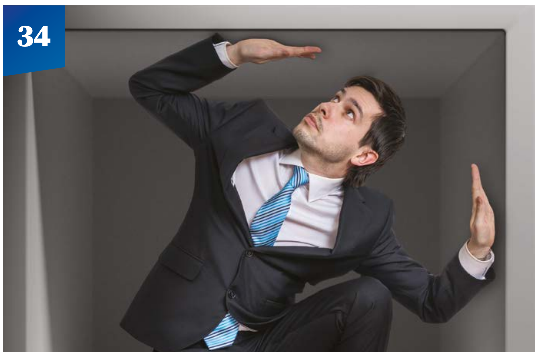
13

19

26

34


39


ONLINE PICKS OF THE MONTH

Reform to the taxation of non-doms
The new foreign income and gains regime
tinyurl.com/3tuak5sf

Navigating strategic challenges
A guide for tax leaders
tinyurl.com/vju53se6

Employee ownership trusts
Key benefits and conditions
tinyurl.com/mm823vtv

CHARLOTTE BARBOUR
PRESIDENT

Welcome to new members

> The Future of Tax Professionals Committee is for new and more recently qualified members who are in the first 10 years of their career.

Welcome. Moving into March, I always look forward to longer days. And looking forward in the CIOT Presidential calendar, the next significant event is the Admissions Ceremony when I have the pleasure of welcoming our new members.

My congratulations to all new incoming members and also to those who have recently passed the ADIT examinations and can become an ADIT Affiliate (Advanced Diploma in International Taxation). It's such an important moment – the exams are behind you, you have demonstrated a very high standard of tax technical knowledge, professional ethics and professional skills, and as a CTA or ADIT qualified professional new opportunities can be on offer. Certainly, being a CTA has served me well and is an important part of my sense of worth.

The Admissions Ceremony itself is a marvellous event, as I remember when I attended 10 years ago to be awarded Fellowship. It's a day of pride and warmth for our members and their families, and for the CIOT. Incoming members are the future of the Institute. Having said that, all members are important, and I shall also look forward to meeting some of those who have been a member for 50 years and more at the Admissions Ceremony.

Becoming a CTA means being a member of a professional body that is constituted as a charity – professionalism and public benefit sit at the heart of the CIOT. This is alongside a support network with CPD offerings, a branch network with approximately 40 branches (so there's likely to be one near you!), opportunities to be involved in CIOT technical and professional work via the committees (which are open to all members) and opportunities to be in touch with other professionals.

Talking of committees, the Future of Tax Profession Committee (FTP Committee) is for new and more recently qualified members who are in the first 10 years of their career. It hosts events such as development skills, networking, social, technical and general interest that are particularly relevant to those in the early part of their career. It also works collaboratively with the Branch Network to geographically widen the scope of their committee and the members they support. Last autumn, I attended one of their meetings (they are usually online to facilitate participation) and it was an interesting and helpful session with a warm friendly welcome to me, especially as I can't pretend to qualify for membership of this Committee!

There is an important need in our Institute to both canvass, and represent, the views of new tax professionals – please consider joining or attending the FTP Committee events. The future of the tax ecosystem is likely to be different as change comes about, with systems increasingly digital, using AI more extensively in the profession and also in the tax authorities, and so on – and this needs to be informed by those working in tax going forward.

For future members, there will be a rollout of the new syllabus in 2027, which will include a stronger emphasis on skills. How you use your technical knowledge is every bit as important as having technical knowledge. Much more difficult than in my day is how to access and evaluate the tax information on offer. My textbooks in the 1980s did not offer me either legislation or case law which felt as though it was right but wasn't! Nor did I have such a huge volume of tax law and secondary sources to consider.

The ability to work with vast amounts of information in a client useful way is a crucial part of any professional's training today. Vital non-technical skills such as problem solving, client communications, ethics and professional scepticism will define the distinction between an excellent professional service and simply using AI or reading a website.

The CIOT will be issuing a formal consultation on the proposed changes to the syllabus, and the way in which it is examined, later this year. Meanwhile, for those who have recently qualified, if you have feedback on the syllabus or the examination process – please do let me know. It will be taken into account. We want a qualification that provides what students and employers need.

All the very best to our new members.

Charlotte Barbour
President
president@ciot.org.uk

Chartered Institute of Taxation.

CIOT impact 2024

Chartered Institute of Taxation.

4.8m
LITRG website views

150+
consultation responses

Public voice

308	quotations in mainstream media
99	journalists spoken with
141	citations in parliament
70k	views of our 'tax explainers'

Making the tax system better

HMRC – Helpline cuts reversed following reactions from CIOT and others.

Non-doms – Improvements secured to government reforms, including temporary repatriation plans.

SDLT – first-time buyer relief defect corrected thanks to CIOT representations.

Service levels – extensive research study with ICAEW and 31 member firms to inform engagement with HMRC.

Self assessment – LITRG convinces HMRC to make it easier to download paper forms.

Branches & events

11,633
event and debate registrations

200+
branch committee members

Membership

91% of CTA students join in 2 years

4,064 CTA students

2,000+ ADIT completers

20,193 members

173 new DITT graduates

688 new members

GRAHAM BATTY
DEPUTY PRESIDENT

The rise of AI

> The use of generative AI has exploded and is promising huge benefits in increased efficiency by automating administrative activities.

Given how quickly they have worked themselves into everyday usage, it is surprising to remember that leading generative artificial intelligence (AI) tools, such as ChatGPT and DeepSeek, were only launched in November 2022 and January this year. However, while the concepts of AI and machine learning have been around for decades, their practical application to everyday life was in the realms of science fiction, not everyday reality.

But now the use of generative AI has exploded, and it is promising huge benefits in increased efficiency by automating administrative activities, such as Know Your Client checks, document verification, customer support, client self service solutions, report generation and technical research. A recent City of London and KPMG report forecast that the adoption of AI by the financial and professional services sector could lead to growth of £35 billion in the next five years.

The technology is developing quickly and with no universal regulatory framework, so there is potentially something of a wild west environment with risks as well as opportunities. The forthcoming ATT and CIOT Tax Technology Conference at ICC Birmingham on 4 June will give you an insight into the issues (see www.tax.org.uk/tax-technology-conference-2025).

So how is AI going to impact on the work of ATT members? Clearly, it has the potential to make life considerably easier for practitioners by taking on a lot of basic admin functions. It is also a powerful research tool, being able to rapidly search legislation, case law, etc. on a specific issue and collate the results. However, it is well known that generative AI can 'hallucinate' and give incorrect results. And it is reported that an AI generated list of cases used in a legal hearing had all been made up by the AI tool used.

From a risk management perspective, anything created by AI must be reviewed by a competent tax professional. The knowledge of qualified ATT members is going to continue to be needed and, in fact, will become even more important. The focus of our work is going to change, though, to reviewing AI generated material, rather than doing the detailed research and preparation.

The way in which work is charged for will also have to change. The traditional time and materials method is unlikely to be sustainable in the long term if AI dramatically reduces the time taken. An outcome based perceived value to the client model will be required. Increased efficiency through using AI may also mean opportunities that were previously not viable on a time and materials basis will be profitable in future.

But what of the threats? Clearly, if we can use AI to do our current work so can our clients, albeit using generic systems rather than the bespoke tax AI versions being developed by some firms. This could see clients take a DIY approach. And what about the ethics of using AI? Do you tell clients you will be using AI to produce your advice? To manage risk, you will certainly need to put it in your engagement letter.

One thing is for certain. High quality, experienced, qualified tax professionals will continue to be needed. Whether produced by AI or real people, work will still need reviewing. In a client meeting, I seriously doubt if you would get away with putting every question into an AI chatbot before answering – if you want to keep the client, that is!

A final thought: where does this leave your ATT qualification? As I have already pointed out, professional services in the brave new world of generative AI needs people who can critically review AI produced material, not simply accept it. This needs the wide ranging, robust tax knowledge that passing the ATT exams gives you.

Sadly, in common with other educational organisations, we are faced with having to defend the integrity of our qualifications from those seeking to gain an unfair advantage by using AI to write their exam answers. Unfortunately, in the November 2024 exam session, evidence was found of candidates doing this, despite the exam regulations specifically prohibiting it. It is cheating and does not demonstrate the ethical standards expected of a potential ATT member. Candidates who broke the examination regulations in this way were disqualified from the exam session and referred to the Taxation Disciplinary Board, who will consider any further action.

This column was written without the assistance of AI. Until next month.

Graham Batty
ATT Deputy President
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ATT impact 2024

9 times cited in parliamentary debates and reports

2,779 exams sat - all online

Technical engagement

51	Technical articles
16	Technical submissions
75k	views of our 'tax explainers'
35	HMRC groups represented on

10,138 members

46 branch webinars for members and students

606 new members

1,576 student registrations

6,756 students (inc Tax Pathway)

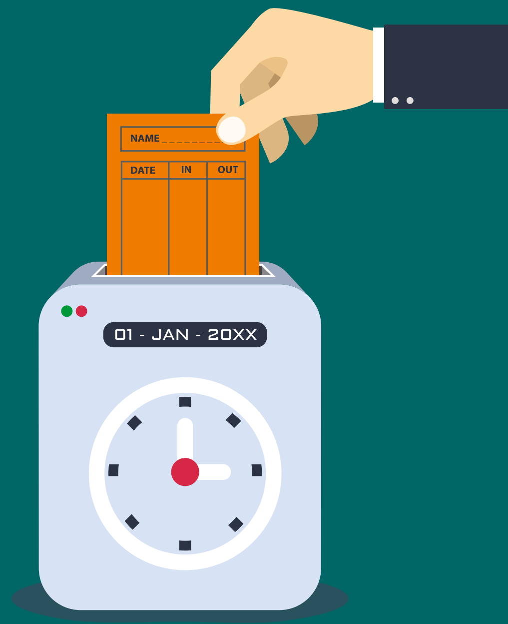
Media Coverage

67	times featured in the mainstream media
29	times featured on radio and TV
17	Press releases issued

Our successes in 2024

- Helping HMRC to improve letters and guidance for bereaved families
- Over 22,000 views of our basis period reform FAQs
- More than 100,000 copies of our Employer Focus newsletter sent out
- Launched free quarterly CPD webinars for members
- Established mentoring programme to support personal and professional growth

Pay As You Earn
Our most important tax system



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Since its introduction over 80 years ago, PAYE has continued to evolve. Where is it heading next?

by Bill Dodwell

The single most important tax system in the UK is, of course, the Pay As You Earn system. In 2023-24, PAYE brought in some £409 billion, or about 42% of national accounts taxes. The 2024-25 figure is expected to be £423 billion, or 41% of total taxes – affected, of course, by the reduction in individual National Insurance contributions enacted by the last government.

How did we get here?

Our current PAYE system commenced in 1944, as the Treasury worried that the growth in employment income during the Second World War meant that a proper withholding was needed. Before the war, about 10% of adults paid income tax; after the war that had climbed to about 30%. About a million employers started to withhold tax from 16 million employees under the new system.

Right from the start, PAYE was determined by a tax code setting out which additions and deductions should be made from employment income. Everything then had to be rounded as, without computers, precise calculations (in pounds, shillings and pence!) would have been impossibly cumbersome.

The next big step was in 1975, when National Insurance began to be collected through the PAYE system. Before that, National Insurance was paid by buying stamps and sticking them to the employee's card, which was then sent to the giant National Insurance centre at Longbenton for processing. This meant that for the first time the amount of National Insurance varied by income, replacing the flat rate stamps.

Twelve regional PAYE databases were set up in 1984 to replace a system of paper records (computing power meant that a single system wasn't possible). Twenty-five years later, in June 2009, HMRC introduced the new National Insurance and PAYE System (NPS), replacing the 12 databases with a single database of employees and pension recipients.

When holding all the data in a single place, reconciling an individual's tax liability with that tax withheld should have become an automatic process, replacing the manual process previously needed. Unfortunately, the introduction did not go well. The new system was delayed by a year for testing, which meant that the annual reconciliation exercise was delayed, too. The result was that over 6 million taxpayers found out late that they had over or underpayments – and in 2010 there were nearly 18 million open cases that took HMRC over two years to reconcile. In the end, billions in tax revenue were written off, at some damage to the reputation of the newly formed HMRC.

The next big step was the announcement in 2010 of a move to Real Time Information (RTI), where employers pass information about employees every time a payment is made – not just at year end. HMRC worked closely with employers, professional bodies and others involved to help make sure that RTI was a success. It was probably the first and best example of collaborative working when introducing a major new tax system. Much was made at the time of the need for high quality data, which RTI was intended to produce, but it was necessary for HMRC to reconcile its existing data with that held by some 2 million employers.

Where are we going?

The next move is to introduce the mandatory payrolling of benefits in kind, set for April 2026. The aim is to get rid of separate benefits reporting and the need to recover tax on them through adjusting the tax code. This was an idea supported both by the Office of Tax Simplification and HMRC's independent Administrative Burdens Advisory Board (ABAB). However, ABAB urged HMRC to delay the introduction until it has resolved the data needed to be supplied by employers and payroll systems, come up with methods for taxing and reporting accommodation and loan benefits, and given at least 18 months' notice so that software, payroll systems and employers can prepare and adapt (see tinyurl.com/5dte4tej).

The Tax Code remains one of the vital parts of the UK system, intended to remove the need for most employees to file tax returns. However, it is one of the least understood parts of the system, despite HMRC's efforts to express the concepts in simple language. Finding simpler approaches could help people to at least check that they recognise the entries in the tax code, even if they don't quite follow how it leads to the right amount of tax being collected.

The other open challenge is how to improve the process for the several million people who start and leave jobs every year. Leaving at the end of the monthly pay period, starting at the beginning of the next one, and completing accurately the necessary information in the starter checklist or the P45 should mean that the correct amount of tax is deducted in the year. Unfortunately, it doesn't always work that way, and millions do end up with over or under deductions and incorrect tax codes which need to be updated. Finding ways to improve this would bring big benefits for employees, employers and for HMRC.

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Profile: Bill is the former Tax Director of the Office of Tax Simplification and Editor in Chief of Tax Adviser magazine. He is a past president of the CIOT and was formerly head of tax policy at Deloitte. He joined the Administrative Burdens Advisory Board in 2019. Bill won the Lifetime Achievement Award at the Tolley's Taxation Awards in 2024 and writes in a personal capacity.

The scope of inheritance tax

A new residence-based system

In the second of two articles on fundamental reforms to the taxation of non-UK domiciled individuals, we examine how long-term residence will replace the concept of domicile when determining inheritance tax.

by Valeriy Ilchenko

From 6 April 2025, the concept of domicile as a connecting factor for inheritance tax purposes will be replaced with the concept of a long-term resident.

UK assets will always remain within the scope of inheritance tax, as under the current rules. The test of whether non-UK assets are within the scope of inheritance tax will be whether an individual qualifies as a ‘long-term resident’. An individual will be treated as a long-term resident once they have been resident in the UK for ten out of the 20 years prior to the tax year in which a chargeable event (such as death) arises.

Whether an individual is considered a resident in a tax year will be determined using the same rules that apply for income tax and capital gains tax. The statutory residence test will be relevant from 6 April 2013 onwards. For tax years prior to 6 April 2013, the pre-statutory residence test rules will apply.

Once an individual has acquired the status of a long-term resident, their worldwide assets will effectively fall within the scope of inheritance tax from the 11th year of UK tax residence. This means that individuals who do not wish to acquire the status of a long-term resident will need to plan on the basis that they do not remain UK resident for longer than nine tax years in any 20 year period, as residence in any part of the tenth year will bring them within the scope of the long term residence rules.

As a result of these changes, non-UK domiciled individuals residing in the UK will become subject to inheritance tax on their worldwide assets sooner than under the current inheritance tax rules – ten years instead of 15 years.

The long-term residence test applies irrespective of an individual’s common law domicile. Therefore, there is encouraging news for UK domiciled individuals who have been, or will be, non-UK residents for ten years, as they may no longer be liable for inheritance tax on their non-UK assets.

Inheritance tax tail

Once an individual who has become a long-term resident leaves the UK, their worldwide assets will remain within the scope of inheritance tax for a number of years, commonly referred to as the ‘inheritance tax tail’. The length of this tail depends on the duration of the individual’s residence in the UK.

The minimum length of the tail is three years, which applies to individuals who have been UK residents for ten to 13 of the past 20 UK tax years. The length of the tail increases by one tax year for each additional year of residence, up to a maximum of ten years. See ***The inheritance tax tail***.

There are special transitional rules for non-UK domiciled or deemed

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THE INHERITANCE TAX TAIL

Number of years of residence	Corresponding length of the tail
13 years or less	3 years
14 years	4 years
15 years	5 years
16 years	6 years
17 years	7 years
18 years	8 years
19 years	9 years
20 years	10 years

Key Points

What is the issue?
From 6 April 2025, a new residence based system will be introduced for inheritance tax purposes.

What does it mean for me?
Under the new system, non-UK assets will be within the scope of inheritance tax if an individual qualifies as a long-term resident (defined as being UK resident for ten out of the previous 20 years). Individuals who leave the UK will remain within the scope of inheritance tax for a period ranging from three to 10 years after their departure. Trusts holding non-UK assets will also be subject to inheritance tax charges at relevant chargeable events if the settlor is a long-term resident (subject to certain transitional provisions for trusts settled prior to 30 October 2024).

What can I take away?
Individuals should review the impact of the changes on their affairs and consider a range of matters (including how assets are held, succession arrangements, timing of transactions, liquidity needs and mobility considerations) as part of a broader family succession plan.

domiciled individuals who are not resident in the tax year 2025/26 and do not return to the UK. These individuals will be subject to the three-year tail (as currently applies), regardless of how many years they have been resident in the UK prior to 6 April 2025.

To benefit from these transitional rules, they must still demonstrate that they are not domiciled in the UK under common law on 30 October 2024. Therefore, the concept of domicile will continue to be relevant for these purposes. Demonstrating a non-UK domicile can be an onerous task and in judgmental cases it is prudent for taxpayers to take advice on their position and to keep contemporaneous evidence.

Once an individual has lost their inheritance tax tail, assets owned by them personally and via trust structures will become excluded property for inheritance tax purposes. However, where assets are held via a trust, there can be an exit charge for inheritance tax purposes.

Inheritance tax regime for trusts

Under the current rules, non-UK situated property will be excluded from inheritance tax provided that the settlor was non-UK domiciled at the time the assets were transferred to the trust.

From 6 April 2025, the excluded property status of non-UK assets settled into trust will depend on whether the settlor is treated as long-term resident at a time when a chargeable inheritance tax event occurs. When the settlor is a long-term resident, any assets they have settled will be within the scope of inheritance tax. This means that settled assets come in and out of inheritance tax charges based on the settlor's long-term residence status in the UK at the time of a charge.

> **Where trust assets fall within the scope of inheritance tax, two separate charging regimes need to be considered.**

Where trust assets fall within the scope of inheritance tax, there are two separate charging regimes that need to be considered.

1. Relevant property regime

Under this regime, assets fall within the scope of inheritance tax charges of up to 6% on every ten-year anniversary of the trust creation and when capital distributions are made from the trust. The calculation of the charges will reflect the number of years that the non-UK property was excluded, resulting in lower charges during the early years of the operation of the new rules.

If the settlor of a trust has died before 6 April 2025, the excluded property status of non-UK assets will be determined based on the old test, which considers the settlor's domicile at the time the property was transferred to the trust. If the settlor of a trust dies on or after 6 April 2025, the excluded property status will not be available if the settlor was a long-term resident in the UK at the time of death.

From 6 April 2025, if a settlor ceases to be a long-term resident and non-UK relevant property held within a trust becomes excluded property, this will trigger an inheritance tax exit charge. The inheritance tax charges in this scenario will be capped at a maximum of 6%, reduced proportionally by the number of quarters to the next ten-year anniversary of the trust's creation, while also reflecting the period during which the property qualified as excluded property.

The relevant property charges (including exit charges) apply not only to non-UK domiciled individuals who cease being UK tax resident from 6 April 2025 onwards, but also to those who left the UK before this date but remain within the scope of inheritance tax on non-UK assets for three years after their departure under the current inheritance tax rules.

2. Gift with reservation of benefits rules

Where the settlor is not excluded as a beneficiary of the trust, assets will be included in their estate for inheritance tax purposes and taxed at rates of up to 40%.

Under the transitional rules, non-UK assets settled into a trust before 30 October 2024 will not be subject to the gift with reservations provisions. Therefore, there will be no 40% charge on the settlor's death if they are a long-term resident. However, such trusts will still be within the scope of relevant property charges of up to 6%, as noted above. Accordingly, the grandfathering of trusts settled prior to 30 October 2024 is only partial and does not remove the exposure to inheritance tax under the relevant property regime.

Estate treaties

The government has indicated that there will be no changes to the operation of the estate tax treaties concluded by the UK. Consequently, the common law concept of domicile will continue to be relevant for determining whether an individual is considered domiciled for the purposes of these treaties and whether the UK has the right to impose inheritance tax on the individual's estate. Notably, some estate tax treaties provide protections for settled property after a settlor becomes a long-term resident in the UK.

Reform of agricultural property relief and business property relief

Many non-UK domiciled individuals own trading and farming businesses outside of the UK. As such individuals may fall within the scope of worldwide taxation for inheritance tax purposes from 6 April 2025, they need also to consider whether agricultural property relief and business property relief may be available.

In this regard, it is important to note that the UK government has also announced reforms to agricultural property relief and business property relief, effective from 6 April 2026. The 100% relief for qualifying assets will be capped at £1 million of combined value in an individual's estate. Any value above this threshold will receive only 50% relief, potentially resulting in an effective inheritance tax rate of 20% on excess personally held assets and 3% for business and agricultural assets held by trustees.

Key actions to consider prior to 6 April 2025

Succession matters are always high on taxpayers' agendas. The inheritance tax reform coming into effect from 6 April 2025 necessitates a reevaluation of traditional routes, such as trusts, commonly used by non-doms for asset protection and succession purposes. It is essential to consider alternative strategies in light of these changes.

As decisions on succession involve factors that extend beyond tax considerations – such as wealth protection, heir readiness and family dynamics – the primary challenge is to weigh all relevant factors and make a balanced decision within this limited timeframe.

Putting fundamentals in place

Individuals who fall within the scope of inheritance tax concerning non-UK assets need to review their worldwide will arrangements, considering factors such as the availability of spousal exemption. This process can be particularly complex for those with assets and family members spread across multiple locations.

Additionally, some individuals may consider obtaining life insurance to cover inheritance tax liabilities arising from both lifetime and death transfers of assets. As this is a regulated area, individuals will require specialist financial advice.

Lifetime gifting

Under general principles, lifetime gifts of assets do not attract inheritance tax if the donor survives for seven years following the gift. However, these rules are not applicable when the gift involves excluded property.

Some taxpayers may wish to consider whether it is timely to make lifetime gifts of excluded property to the next generation while the current rules are in place, prior to 6 April 2025.

Reviewing succession arrangements

Trusts have been historically used by non-UK domiciled individuals, given their asset protection, governance and succession impacts. However, given the extension of inheritance tax charges to trusts where the settlor is a long-term resident, as well as the removal of trust protections for income tax and capital gains tax (as outlined in the first article), the tax landscape for trust structures will significantly change from 6 April 2025.

Accordingly, some individuals may wish to revise their existing succession arrangements and consider alternatives to trusts, such as a family investment company or partnership. These alternatives come with their own distinct tax and legal frameworks and may be more suitable for certain taxpayers moving forward.

Where there are existing trusts, the trustees may need to consult with the settlor and/or beneficiaries regarding any changes.

Considering transitional provisions applicable to individuals leaving the UK

Individuals who decide to leave the UK and become non-UK tax resident from 6 April 2025 will be subject to transitional provisions relating to the reduced inheritance tax tail. As noted in the first article, such individuals will need to take care to comply with the statutory residence test. From an inheritance tax perspective, they need to review their common law domicile, as the transitional rules do not apply to individuals who are UK domiciled under common law on 30 October 2024. Furthermore, where such individuals are settlors of a trust, an exit charge may arise when they lose the inheritance tax tail.

Considering the impact of the estate treaties

Where individuals are domiciled outside of the UK for the purposes of the relevant treaties, protection from inheritance tax may be available even after they become long-term residents in the UK. As recent case law indicates, demonstrating non-UK domicile status may prove to be challenging for individuals who stayed in the UK long term. A detailed review of the relevant estate treaty and its qualifying conditions would be required to confirm the position. Where relevant, a review of domicile position is also necessary (in the UK and/or the relevant treaty partner country).

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Protecting the crown jewels

Pre-nuptial and post-nuptial agreements

As recent changes encourage wealthholders to consider making gifts during their lifetime to avoid inheritance tax, we consider the benefits that may be gained from pre- and post-nuptial agreements.

by Julia Cox and Sarah Jane Boon

Families face an evolving legal and tax landscape that demands careful planning, particularly when it comes to safeguarding family wealth. With changes to agricultural and business property relief set to come into force in April 2026, the traditional approach of passing assets on death has become less viable for farmers and business owners.

Families are now being driven to transfer assets sooner than anticipated, prompting critical questions about how to protect these 'crown jewel' family businesses, farms or inherited assets from potential division in the event of divorce. This is where pre-nuptial and post-nuptial agreements – more colloquially known as 'pre-nups' and 'post-nups' – will become even more significant.

What are pre-nuptial and post-nuptial agreements?

A pre-nuptial agreement is entered into before a marriage or civil partnership, setting out how assets – including property, debts and income – will be divided in the event of divorce. A post-nuptial agreement achieves the same aim but is signed after the marriage has taken place (whether only a few weeks after or many years after). Importantly, both can ringfence family wealth, such as farms or businesses, protecting them from claims by a spouse, whilst still sharing any assets built up by the spouses during their marriage.

These agreements are not just useful for the ultra-wealthy. They are increasingly relevant for families making lifetime gifts of substantial assets, including those made earlier than planned due to tax changes. Unsurprisingly, parents or grandparents passing down assets want to ensure that these are preserved for future generations and not lost through potential divorce settlements.

Pre-nuptial (and post-nuptial) agreements are not enforceable as contracts in courts in England and Wales. However, in the landmark case of *Radmacher v Granatino* [2010] UKSC 42, the Supreme Court ruled that courts should uphold a nuptial agreement freely entered into by both parties, with a full understanding of its implications, unless it would be unfair to do so in the given circumstances. This means that the court will assess the fairness of each agreement on a case-by-case basis.

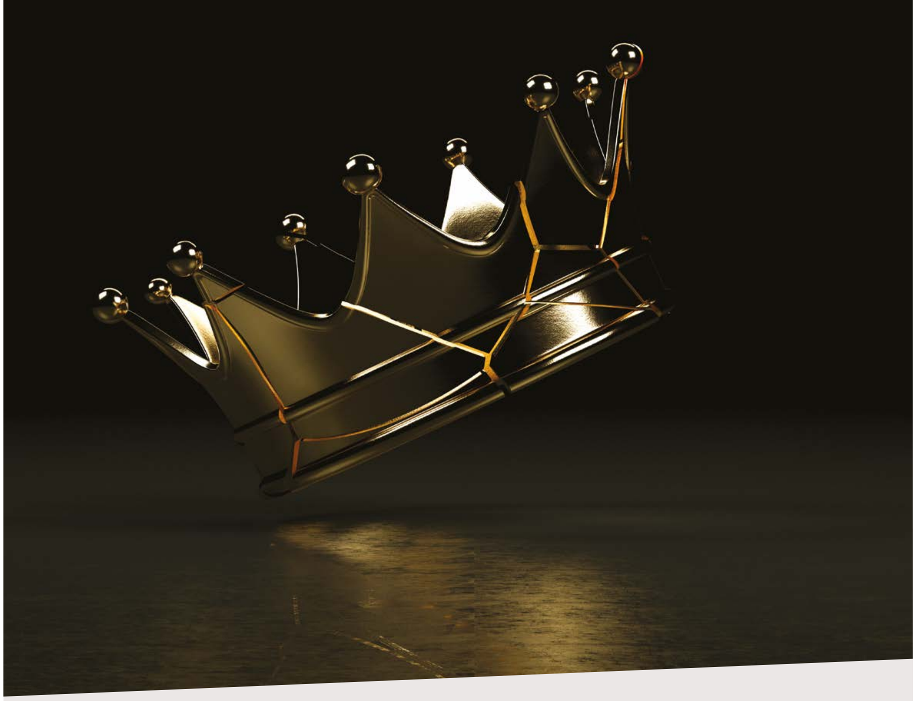
The impact of changing tax rules

Recent tax changes have significant implications for estate planning. Agricultural property relief and business property relief have been capped at 100% relief for up to £1 million of combined asset value. Anything above this threshold will now benefit from only 50% relief, so incurring a 20% tax liability on death. As a result, farmers and business owners must consider making gifts during their lifetime to avoid substantial inheritance tax on death. If they survive for seven years after making the gift, the assets fall outside their estate for inheritance tax purposes.

This shift means that families are increasingly assessing the benefits of transferring assets outright to the next generation earlier than they otherwise would. Yet this raises key concerns. Are the recipients ready to manage such significant assets? Are they married, or could they marry badly? If so, how can families protect the wealth being transferred?

There is a common misconception that it is too late to protect family assets once children are already married. However, a post-nuptial agreement can be entered into at any time, regardless of how long a couple has been married. For families gifting assets, especially substantial ones like farms or businesses, this is a crucial point.

A timely trigger for a post-nuptial agreement might be the transfer of what is, in essence, an early inheritance. For example, a family may gift a farm to their child for tax mitigation reasons. While the family's intention is to preserve the asset for future generations, there is a risk of unintended consequences, such as the child divorcing and half the farm passing to their ex-spouse. In this scenario, a post-nuptial agreement would provide a clear and enforceable means of protecting the asset.



UPHOLDING THE AGREEMENT: SOME GUIDANCE

When ruling on the case of *Luckwell v Limata* [2014] EWHC 502, Mr Justice Holman provided some useful guidance about whether it is fair to hold the parties to the pre-nuptial agreement.

1. A nuptial agreement cannot be allowed to prejudice the reasonable requirements of any children.
2. Respect for autonomy, including a decision as to the manner in which their financial affairs should be regulated, may be particularly relevant where the agreement addresses the existing circumstances and not merely the contingencies of an uncertain future.
3. There is nothing inherently unfair in an agreement making provision dealing with existing non-marital property including anticipated future receipts, and there may be good objective justifications for it, such as obligations towards family members.
4. The longer the marriage has lasted, the more likely it is that events have rendered what might have seemed fair at the time of the making of the agreement unfair now, particularly if the position is not as envisaged.
5. It is unlikely to be fair that one party is left in a predicament of real need while the other has 'a sufficiency or more'.
6. Where each party is able to meet his or her needs, fairness may well not require a departure from the agreement.

What can and cannot be included in pre-nups and post-nups

It is essential to understand what these agreements can and cannot include under English family law.

What can be included:
Pre-nuptial and post-nuptial agreements can outline how family wealth (gifts, inheritances, trust interests, or shares in family businesses) will be protected. They can also specify how those assets built up during the marriage, such as property, savings and pension pots, will be shared.

What cannot be included:
Agreements cannot exclude claims for child maintenance or any financial provision for (future) children. This is a matter of public policy and cannot be overridden.

One key challenge lies in the treatment of assets that have been gifted or inherited but are later used during the marriage. For example, if a couple lives in a family estate during their marriage, excluding the value of that property in a divorce settlement can be complex. The spouse who does not have ties to the estate may have enjoyed an elevated lifestyle that cannot be replicated post-divorce, creating further complications.

Tax considerations

While divorce settlements themselves are not taxable, tax can arise when realising assets to fund a settlement. For instance, a spouse may have to sell shares in a business or other property to raise the cash for a settlement. If this results in a capital gains tax liability, it must be factored into the agreement.

Financial disclosure given as part of a pre-nuptial or post-nuptial agreement typically includes the then gross asset values, with a note acknowledging that tax may be payable when realising those assets in the future.

Regarding the inclusion of wider provisions in agreements, some agreements address not only divorce but also what happens on the death of one party. For example, family assets might be structured to ensure they ultimately pass down the bloodline. This can be particularly helpful in the case of remarriages, as it clarifies how assets will be treated, reducing uncertainty and potential disputes.

Practical considerations

For a pre-nuptial or post-nuptial agreement to be upheld in court, it must meet certain practical and fairness requirements:

- Firstly, each party must receive independent specialist legal advice before signing the agreement.
- The agreement must be fair at the time of signing and remain fair in the future circumstances which come to be considered if the marriage breaks down. This is where litigation can arise, as one party may argue years later that the agreement no longer reflects their current needs.
- For pre-nuptial agreements, best practice is for the agreement to be signed at least 28 days before the wedding to avoid claims of undue pressure.

While some practitioners advocate for regular reviews (e.g. every few years or after significant life events like the birth of a child), this approach carries risks.

Clients often prefer not to build in ongoing costs or uncertainty. Instead, they should be advised to revisit the agreement if something significant changes, such as relocation to another jurisdiction where supplemental agreements may be needed.

Planning for the future

With changing tax rules driving families to transfer wealth earlier, pre-nuptial and post-nuptial agreements are more important than ever. They provide a clear framework for protecting family assets, ensuring they are preserved for future generations. By ringfencing inherited or gifted wealth, whilst the spouses still share the assets they build up together during their marriage, these agreements strike a fair and practical balance.

Families should act proactively, ensuring their children or grandchildren, whether newly married or long-term spouses, have the appropriate agreements in place. With specialist advice, careful planning and clear documentation, families can protect their 'crown jewels' for generations to come.

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Reverse charge procedures
Happy birthday!

The reverse charge procedures for the construction industry were introduced four years ago. We explain the basic rules and some common problems that have arisen.

by Neil Warren

Where has the time gone? Somewhat incredibly, it is almost exactly four years since the reverse charge rules for the construction industry were introduced on 1 March 2021.

The aim of the change was to reduce VAT fraud in the building trade; namely, situations where output tax was charged on a supply made by a builder but output tax was not declared and paid on a return. The reverse charge process removes this risk because the VAT registered customer accounts for the output tax instead of the supplier. The customer will usually claim the same amount of VAT as input tax on the same return, meaning there is a neutral cash flow.

I am a massive fan of reverse charge accounting and think it should be extended to other industries. As Del Boy from the hit programme *Only Fools and Horses* might say: 'You know it makes sense, Rodney.'

In this article, I will review the basic rules and highlight some common errors.

How does it work?

As mentioned above, the aim of reverse charge accounting is to reduce fraud in the construction industry. Here is a typical transaction:

- Builder Bob is VAT registered and has done some work for Oberon Builders, charging £10,000 plus VAT. The supply is standard rated and is subject to the reverse charge rules, so Bob issues a sales invoice for £10,000 and no VAT.
- Bob must note his invoice along the lines of: 'No VAT charged, reverse charge to be accounted for by customer.'
- Oberon will apply the reverse charge and account for output tax of £2,000 in Box 1 of their next return, claiming the same amount as input tax in Box 4. The latter entry assumes there is no input tax block for Oberon with either private, exempt or non-business use.
- Bob will record the sales value of £10,000 in Box 6 of his return (the outputs box) and Oberon will enter £10,000 as an expense in Box 7 (the inputs box).

Here are two common errors:

- Some buyers of construction services think they must include the value of the supply in Box 6 of their return as well as Box 7. This outcome is relevant if a UK business buys certain services from abroad but not supplies in the construction industry. This is because the Box 6 entry is always made by the supplier.
- The supplier must show the amount of VAT that their customer must declare on their return with the reverse charge or the rate of VAT that applies to the job. The answer will usually be 20% but the rules also apply to jobs that are subject to 5% VAT, such as the conversion of a commercial property into dwellings.

Scope of the reverse charge

The reverse charge only applies to builder-to-builder suppliers where both the supplier and customer are registered for VAT and the customer makes an onward supply of services to their own customer. Materials supplied by builders as part of their work are also subject to the reverse charge.

Key Points

What is the issue?
VAT registered buyers and sellers of construction services must be clear about when the reverse charge applies to a supply; i.e. when the customer, rather than the supplier, must declare the VAT. HMRC has the power to issue an assessment where the accounting treatment is incorrect.

What does it mean to me?
If a buyer notifies their supplier that they are an 'end user' in a particular deal because they are not selling on the building services in question, the supplier will still charge VAT in the normal way. The article highlights the fact that end user notifications by buyers are optional.

What can I take away?
Ensure that your clients buying and selling construction services are applying the same accounting treatment to both labour and materials on a particular deal. If a builder issues separate sales invoices for materials, they will still be subject to the reverse charge if it applies to the labour; it is the fact that a contract is for both labour and materials that counts.

© Getty images

Builders supplying services must be clear about supplies when VAT must still be charged; HMRC can issue an assessment to correct errors. See ***Reverse charge: checklist for suppliers of construction services***.

Buyers of services must ensure that they are not charged VAT incorrectly by their supplier. HMRC will allow input tax to be claimed in such cases but has the power to assess output tax; in other words, HMRC can issue an assessment to achieve the same outcome as a correct reverse charge entry. The buyer must request a VAT credit from the supplier to balance the books. see ***Reverse charge: checklist for builders that buy construction services.***

End user status

My only disappointment with the reverse charge procedures when they were introduced in 2021 was the complications caused by the phrase 'end user'. This issue is probably only relevant to 0.1% of all transactions – but it was certainly responsible for more than 0.1% of the sleepless nights for advisers as we approached the introduction date!

First, we should start with what is meant by the term 'end user'. It applies when services supplied to a VAT and CIS registered builder do not relate to an onward supply of construction services made by that builder; e.g. the work might relate to repair work carried out at the builder's head office. VAT will be charged in the normal way on these jobs.

An important fact is that the ***buyer*** of construction services must tell their builders if they are an 'end user' for some or all of the work and that VAT should be charged. However, the notification of end user status is optional for the buyer. For example, a builder might think that their customer is an end user but not be notified as such, so the reverse charge will continue to apply, assuming the customer is both VAT and CIS registered.

To quote HMRC's technical manual: 'Only once the notification is made can the supplier stop applying the reverse charge and charge VAT under normal rules. It is optional so there is no legal obligation to be treated as an end user.'

Some horror stories

My first horror story was caused by the fact that the contractor buying subcontractor services misunderstood the rules. He told his subcontractors that he was an end user for certain supplies – and should therefore be charged VAT – because the jobs in question were for domestic customers who were not registered for VAT. This is incorrect: the contractor is still selling on construction services that he has purchased from

REVERSE CHARGE: CHECKLIST FOR SUPPLIERS OF CONSTRUCTION SERVICES

A supplier will apply the reverse charge if there is a 'yes' answer to the first two questions and 'no' to the final question:

1. Is your customer registered for VAT and the Construction Industry Scheme (CIS)?
2. Does the work fall within the scope of the CIS and is subject to 5% or 20% VAT?
3. Has your customer notified you that they are an 'end user' or 'intermediary supplier' for any of the work?

Note: See the main article for definition of an end user. Intermediary suppliers are VAT and CIS registered businesses that are connected or linked to end users.

REVERSE CHARGE: CHECKLIST FOR BUILDERS THAT BUY CONSTRUCTION SERVICES

The reverse charge will apply if you are VAT and CIS registered and answer 'yes' to the first two questions and 'no' to the third and fourth questions.

1. Will the payment for the supply be reported within the CIS?
2. Does the supply relate to services subject to either 5% or 20% VAT?
3. Are you hiring staff or workers; e.g. from an employment business?
4. Have you notified your supplier that the end user or intermediary exclusions apply?

subcontractors; the VAT registered status of his customers is irrelevant. It took some time untangling that one!

The other tale relates to attempts made by subcontractors to issue separate invoices for labour and materials, thinking they can charge 20% VAT on the invoices for materials. Some builders like to boost their cash flow by collecting VAT up to four months before it is declared on a return, hence the motive for the split on reverse charge supplies. In a nutshell, it doesn't work!

A job involving the supply of both labour and materials is classed as a single supply of construction services. To quote from HMRC's guidance: 'If a customer places a single supply and fix order within the scope of the CIS with a supplier, the reverse charge will apply to the full value of the order even if the supplier issues separate invoices for the supply and fix elements.'

What happens if builders raise separate orders for labour and materials? The guidance is clear: 'If the works are to be provided at the same time and on the same site ... they comprise a single supply for VAT purposes.'

HMRC technical guidance

As part of my research work for this article, I re-read the technical guidance published by HMRC to see if there were any important updates. A few issues came to light...

Snagging works

HMRC recently issued Revenue and Customs Brief 03/2024 about the VAT issues for developers and builders as far as remedial repair work is concerned on cladding affected dwellings.

In some cases, contractors will carry out snagging works on a building where they originally supplied construction services but will not charge the developer for this extra work. However, the reverse charge will still apply to subcontractor invoices because the contractor would have charged for supplies of labour and material on the original contract with the developer.

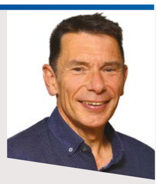
Employment business

Supplies of labour made by an employment business are subject to VAT even if those supplies are within the scope of the CIS. HMRC's technical guidance is very clear about the difference between an employment business and a labour only builder. The key issue is whether a worker is being provided – being paid on a time basis and working under the control of the contractor paying the employment business – or a builder who is charging, say, £500 for each room that they decorate.

Conclusion

The introduction of the reverse charge rules was delayed twice in 2020/21 but they have now been with us for four years and – based on the number of queries I have received from clients and accountants – my view is that they have worked very well.

I hope that HMRC can verify that tax fraud has been significantly reduced: if so, perhaps the department could consider an extension of the reverse charge principles for other supplies? As a suggestion, how about extending it to services supplied to local authorities for their non-business expenses where they recover VAT anyway by submitting a 'section 35' claim to HMRC? I'll leave that idea with you...



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Professional services firms

How to sell your practice

We explore the issues to consider if you decide to close down or sell your practice, how to maximise the sales price, and how to cover yourself against liabilities.

by Karen Eckstein

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Key Points

What is the issue?
The demand for buying and selling professional services firms is high, driven by factors such as competitive market pressures, increased regulation, professional indemnity insurance issues, and recruitment challenges. Many businesses are consolidating, and both buyers and sellers must address various practical issues.

What does it mean for me?
Planning for a sale should ideally begin three to five years in advance. This includes consulting experts, assessing business processes, restructuring if necessary, and obtaining a business valuation. Identifying potential buyers and addressing any business issues are also crucial steps.

What can I take away?
Owners should consider practical points when selling or closing a business, such as the need for run-off cover to protect against claims after closure. Earn-out arrangements can be part of the sale, where additional compensation is based on the business's future performance.

The appetite for buying and selling professional services firms at present is high. This may be being driven by a combination of factors:

- the overheads of running a business in an increasingly competitive market, leading to a need to consolidate;
- increased regulation, particularly in the audit arena;
- professional indemnity insurance issues; and
- difficulties in recruiting staff, leading to the need to outsource, often overseas, which causes further complexities.

What is clear, in my experience, is that more and more businesses are consolidating. And whether you are the buyer or seller of a professional services firm, there are a variety of practical issues that must be identified and addressed.

In the first of two articles, we consider the points to consider if you are selling a professional services firm, alongside the legal and accountancy advice that should also be obtained. In the second article, we will address the issues involved in buying a professional services firm.

Reasons to sell

One of the most common reasons behind the decision to sell a firm is when the owner is coming up for retirement or has other reasons, such as ill health or family issues, for wishing to exit the business.

Even if the owner is not yet ready to retire, they may be alive to the fact that there is no obvious successor to the business. This is particularly common in small firms and owner-managed businesses, where the owner has been significantly influential and has been reluctant to 'let go of the reins'. (This may be a good time to suggest that firms without a succession planning strategy in place should consider the role that junior partners are currently playing, and whether they can be given more opportunities to build the practice.)

Where the owner does have obvious successors within the firm to whom they

wish to sell in the future, they may well, of course, be keen to maximise the sale price before the transfer of ownership.

Increasingly, though, it can be difficult for some firms to remain profitable, as a result of the issues identified above. The owners may simply recognise that the business needs to consolidate but is not large enough itself to purchase another business; in this situation, they will need to find a buyer.

In some less positive situations, the owner of the business may lose their licence to practise as a result of regulatory action. Reputational damage as a result of a significant claim and the resulting harm might also mean that the business is unlikely to survive on its own. In my experience, these cases are reassuringly rare.

Hopefully, a decision does not need to be made in an emergency situation and there is time to prepare for the resulting sale.

When to start the process

As will become apparent from this article, to maximise the chances of the best outcome from a sale requires time and planning. It would not be unreasonable to start thinking about the issues involved three to five years in advance of the likely sale.

The intended seller should also start speaking to a range of experts who can assist in preparing the business for sale. This might include assessing the processes used in the business and making any necessary repairs, restructuring the business if required, and speaking to professional indemnity brokers.

Owners should call in a professional to conduct a business valuation in order to have a realistic idea of what price might be achieved on the sale. They may also assist the owner to review the market in order to identify likely candidates who might be interested in purchasing the business once all 'wrinkles' have been ironed out.

Issues to consider when disposing the firm

There are a number of practical points that should be borne in mind when selling or closing a business, but which are too often overlooked.

Closing down your firm

I often hear exhausted and disenchanted business owners saying that they will just close down their business and walk away. They overlook the need for run-off cover and the not insubstantial costs that might involve. They also overlook the exposure that might arise on them personally (whether they are a sole trader or a director in a limited company) if a claim is made against the firm outside the run-off period. It isn't as simple as just 'walking away'.

An honest and thorough review of the firm's exposure to potential claims over at least the last six or seven years should be undertaken before the firm is closed down. This will allow the owner to be aware of potential exposures faced and to make an informed decision about the extent of run-off cover that must be purchased before the firm is closed down.

The cost of run-off cover will be determined by the firm's contract with its insurer but is usually based upon the previous year's premium. A well-run business with strong risk management and a good claims history is more likely to attract lower premiums, which means that any run-off cover purchased will be cheaper.

See ***Run-off cover*** for further details.

Selling the firm

If the firm is not closed down but is instead subsumed into a new business, then – depending on the manner in which that takes place, and if the purchaser took on the historic liabilities – run-off cover may not be required by the vendor, and those exposures may not be faced.

However, the vendor may still have some exposure arising through the sale and purchase agreement. It will still be in their interest to undertake that review, and take steps to manage and mitigate that risk as far as possible in advance of sale.

More significantly, a well-run business with good clear risk management in place is more likely to attract a higher sale price.

The firm may well have been sold subject to an earn-out, whereby part of the purchase price is paid at the time of the acquisition, and the remainder is contingent upon the business's performance after the acquisition. The likelihood of claims arising during the earn-out is lower if appropriate steps have been taken to manage risk and any issues have been identified prior to the sale.

The firm should therefore consider being able to demonstrate the processes it employs to manage risk, that claims are unlikely to arise, that a detailed and independent review has been undertaken of its risk profile, and that any 'hidden issues' have been resolved. This will give the firm the chance to put right any issues prior to sale to improve the sale value, and avoid any later claims affecting earn-out or payment of warranties and indemnities. See ***Earn-out arrangements*** for further details.

RUN-OFF COVER

Run-off cover is a form of professional indemnity insurance that applies when a business stops trading, goes into administration or an individual has retired. It can apply to businesses, partnerships, limited liability partnerships and unincorporated companies.

Run-off cover will apply to claims that are made after the business has ceased and professional indemnity insurance cover has ended, but which relate to work carried out before that date. It will apply to both the cost of defending the claims and the claims themselves. If a claim is brought after a business has ended where there is no run-off cover in place, then the owner of that business may face personal exposure.

Generally, the insurance premium in the first year after trading is similar to that for the last year of trading, as that is when the risk of a claim being made is at its highest. As the likelihood of a claim reduces as time progresses, so the cost of a run-off policy generally reduces year on year.

Whilst the majority of claims are made within a few years of the work being completed, it is still possible for a claim to go back a number of years. CIOT and ATT require all members to maintain run-off cover for a period of no less than six years from ceasing public practice.

EARN-OUT ARRANGEMENTS

An 'earn-out' will often occur when a business is sold and there is difficulty in agreeing a value fair to both vendor and purchaser. In such circumstances, an earn-out represents part of the consideration for the purchase of the business; i.e. the part which, following negotiations between the parties, is unascertainable.

Typically, the vendor will receive a cash sum, plus an 'earn-out' consisting of a right to receive an amount of deferred cash consideration (or loan notes or securities) dependent on the performance of the newly acquired business over a defined period following the purchase, payable at the end of the period or at various stages during the period.

In effect, the vendor will receive additional compensation if the business meets certain financial targets, such as gross sales or earnings.

In practice: how planning can help!

Firm A had two distinct practice areas: one which had a very bad claims history; and one which had a very good claims history. It restructured the two practices into separate businesses with different insurances for each.

Firm A undertook detailed reviews of both practices areas by independent risk experts. This established that although the first practice area had a bad claims history, the claims history was historic and was unlikely to repeat, leading to reduced premiums going forward. The second practice area had a good claims history and that was likely to remain.

Both practice areas then undertook a review of their processes, which they then implemented. These demonstrated that they were clearly managing risk well going forward.

Firm A then sold the second practice area for a significant sum. (It was clear that the first practice was not attractive in the market and Firm A had received advice that it could sell the second practice for more than it could sell both together.)

In due course, Firm A closed down the first practice. However, the cost of run-off was based upon the improved profile of that practice, and so was a reduced sum which Firm A had planned and budgeted for as part of the overall process.

This might be an extreme example, but it does show that early preparation can lead to significant savings and increased sale prices, as well as avoiding nasty surprises after the event!

In the next article in this series, Karen will explore the issues involved in purchasing a professional services firm.

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Pillar Two: a practical review

The impact on UK businesses

We provide a back to basics review of Pillar Two, looking at its scope, and how the effective tax rate and top-up tax amount are calculated and charged to tax in the UK.

by Philip Harle and Laura Hodgson

A two-pillar corporate tax reform plan was agreed between OECD members in October 2021. The two-pillar plan forms part of the OECD's project tackling base erosion and profit shifting (or BEPS). Whilst Pillar One is yet to be implemented and key aspects of it will only apply initially to multinational enterprises with annual global turnover above €20 billion, Pillar Two is already in force in many jurisdictions and is expected to have a much wider impact on businesses.

Pillar Two seeks to establish a global minimum corporate tax rate. There are two aspects:

- **Global anti-base erosion rules** ('the GloBE rules'): These rules impose top-up taxes where the effective rate of tax of a multinational enterprise in a jurisdiction is below the global minimum corporate tax rate (15%).
- **The 'subject to tax' rule:** This is a treaty based rule which can be added to treaties with the intent that it is adopted by developing countries. It applies to certain cross-border payments which are subject to a nominal tax rate below 9% in the residence state where source state taxing rights have been ceded under the treaty.

This article focuses on the GloBE rules and their implementation into UK law as the 'multinational top-up tax' regime at Finance (No.2) Act 2023 Part 3. However, given that the UK law follows the GloBE rules, the basic approach is similar in other jurisdictions which have adopted them.

Scope

The UK's multinational top-up tax regime applies to 'qualifying multinational groups'. These are groups which:

- have at least one UK entity;
- operate in at least two jurisdictions (whether through entities or permanent establishments); and
- have revenue which exceeds €750 million in at least two out of the previous four accounting periods.

The only excluded activity is international shipping. An entity will be a member of a group if it is included in the consolidated financial statements of the ultimate parent (broadly, the entity at the top of the group structure). Members of qualifying multinational groups are simply referred to as 'members of the group'.

Excluded entities

There are exclusions for certain entities. The revenue of these entities counts towards the revenue threshold, but an effective tax rate does not need to be computed for these entities, and these entities cannot be charged top-up tax. This is because excluded entities (other than an ultimate parent excluded entity) are not treated as being 'members of the group'.

The following entities are 'excluded entities': governmental entities; international organisations; pension funds; non-profit organisations; investment funds; UK real estate investment trusts (REITs) or overseas REIT equivalents; and certain holding entities. Investment funds and REITs can only be excluded entities where they are the ultimate parent.

Special rules also apply to investment entities. These are: investment funds and REITs that are not excluded entities due to not being the ultimate parent; certain holding entities held by such investment funds and REITs; and insurance investment entities.

How is the effective tax rate and top-up tax amount calculated?

Effective tax rate

Entities in the qualifying multinational group must calculate their income ('adjusted income') and tax ('covered tax balance') in accordance with special rules in the multinational top-up tax regime. Essentially, the regime includes its own stand-alone tax code. These rules are generally simpler than, and thus not an exact match for, domestic tax base calculation rules and may result in an entity being regarded as low-taxed even though it is subject to a headline rate of corporation tax of 15% or above.

Adjusted income: When calculating 'adjusted income', applying the rules at F(No.2)A 2023 Part 3 Chapter 4, the starting point is the entity's income in the consolidated financial statements for the group, from which any deductions for taxes must be reversed and any consolidation adjustments unwound. Then a series of more granular adjustments must be made. For example, any 'excluded dividends' must be removed; all dividends are excluded except portfolio holdings (where members of the group do not in aggregate hold 10% or more interest in the dividend paying entity) which have been held for less than one year as at the vesting date of the distribution. Excluded equity gains or losses (e.g. on a disposal of an interest in an entity in which the group holds an aggregate interest of at least 10%) must also be eliminated.

Covered tax balance: Next, the entity's 'covered tax balance' must be calculated, in accordance with the rules at F(No.2)A 2023 Part 3 Chapter 5. Again, the starting point is the current tax expense reflected in the consolidated financial accounts for that entity. To be taken into account, the tax must be a tax on income, profits or capital, but any Pillar Two tax (e.g. a domestic top-up tax) is excluded and taken into account at a different stage. Various adjustments must be made to this figure; for example, uncertain tax positions and tax on excluded income (e.g. an excluded equity gain) are excluded.

Reallocation: Tax may also need to be reallocated between members of the group. The aim of the GloBE rules is that tax on income should be attributed to the same entity in which that income is located. For example, if a parent entity is subject to tax under a controlled foreign company regime, the tax is reallocated to the controlled foreign company entity (provided that entity is a member of the group).

Timing differences: Timing differences (mismatches between local tax rules and accounting rules) are also taken into account when calculating the covered tax balance. For example, a deferred tax liability is taken into account in the fiscal year in which it is recognised for local tax purposes (increasing the covered tax balance in that year) and then unwinds over following fiscal years (decreasing the covered tax balance in those years). If the deferred tax liability does not unwind within five years, recapture rules apply unless an exception is available.

Jurisdictions: The aggregate adjusted income and aggregate tax covered tax balance is calculated for each jurisdiction, and the aggregate covered tax balance is then divided by the aggregate adjusted income to get the effective tax rate for the jurisdiction. If there are any investment entities or minority-owned entities in the jurisdiction, their effective tax rate is calculated on a standalone basis.

> **Broadly, if the effective tax rate for a jurisdiction is less than 15%, there usually will be a top-up amount.**

Top-up amounts

Broadly, if the effective tax rate for a jurisdiction is less than 15%, there usually will be a top-up amount for that jurisdiction.

The top-up amount is calculated by multiplying the 'excess profits' for a jurisdiction by the difference between 15% and the effective tax rate for that jurisdiction. The excess profits are the aggregate adjusted income less a 5% return on the employees and tangible assets in that jurisdiction. For the first ten years that the regime is in force, a higher return applies, starting at 10% for payroll and 8% for tangible assets and tapering down during the period.

This figure is then reduced by any qualifying domestic top-up tax (see further below) for the territory to get the 'total top-up amount'. For UK group members, this is the step that wipes out the multinational top-up tax liability, so that a double Pillar Two tax charge does not arise in relation to that UK entity. The total top-up amount is then apportioned between profitable entities in the jurisdiction in proportion to their adjusted income.

A de minimis election may be made where the group has limited presence in a territory (average revenue in territory is less than €10 million and average adjusted profits for members in that territory is less than €1 million). Where a de minimis election is made, the total top-up amount for a territory for a period is treated as nil.

Additional top-up taxes may also arise, for example where there is a deferred tax liability that did not unwind within five years. This requires the effective tax rate and top-up amount for the previous accounting period to be recalculated. Additional top-up tax is charged under charging mechanisms (in the same way as a top-up amount) in the current accounting period.

How is the top-up amount charged to tax?

It is not necessarily the entity with the top-up amount that will be charged to tax on the top-up amount. There are three possible ways in which the top-up tax amount might be taxed. These rules interact to ensure that the same amount is not charged to tax twice.

1. Qualifying domestic minimum top-up tax (QDMTT)

A country can opt to implement a domestic minimum top-up tax. A domestic top-up tax is an extra tax, levied under domestic tax rules to top-up the effective tax rate on excess profits of entities in a jurisdiction to the minimum tax rate of 15%. Introducing a domestic top-up tax ensures that any top-up tax for that jurisdiction goes to the local tax authority, rather than a tax authority elsewhere. In order to be qualifying under the GloBE rules, the domestic top-up tax must produce outcomes that are consistent with the GloBE rules.

The UK rules: The UK has implemented a domestic top-up tax at F(No.2)A 2023 Part 4; this regime has been recognised as a QDMTT by the OECD. Further detail about the operation of the UK domestic top-up tax regime is set out below.

2. Income inclusion rule (IIR)

Under the IIR, a parent entity is charged to tax in proportion to their percentage interest in the entity with the top-up amount, provided the parent entity is located in a jurisdiction that has implemented an IIR.

The UK rules: To be chargeable to multinational top-up tax (under either the IIR limb or the undertaxed profits rule limb (see below)), a person must be:

- a member of a qualifying multinational group;
- a body corporate or a partnership; and
- located in the UK.

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> The UK domestic top-up tax regime is based on the multinational top-up tax regime, with certain modifications.

There is also a back-up provision which applies where a member of the group is not a body corporate or a partnership, which charges multinational top-up tax on the person to whom the profits of that member would be attributed for UK tax purposes.

To be actually charged tax under the IIR, the person must be a 'responsible member'. The ultimate parent will be a responsible member, if it is located in an IIR jurisdiction (and is not an excluded entity). Intermediate parents can also be responsible members. For example, if the ultimate parent was not a responsible member and an intermediate parent member of the group was located in an IIR jurisdiction and held a direct/indirect interest in an entity with a top-up amount, that intermediate parent would be a responsible member (unless the intermediate parent was an excluded entity or there was another intermediate parent that was also subject to Pillar Two tax in the chain above it).

Special rules apply to partially owned parent members: entities that hold a direct/indirect ownership interest in another group member where more than 20% of ownership interests in the entity are held by persons outside the group.

Top-up amounts are then broadly allocated to the responsible member(s) by reference to the responsible member's interest in the entity with the top-up amount. There is also an offset mechanism to prevent double taxation arising from multiple levels of multinational top-up tax charges where there is more than one responsible member in relation to a top-up amount.

3. Undertaxed profits rule (UTPR)

If there is any residual amount of unallocated top-up amounts after the IIR has been applied, the UTPR allocation mechanism apportions this amount between jurisdictions which have both implemented a UTPR and have local tangible assets and/or employees. Jurisdictions can choose whether to collect this tax by way of a denial of a tax deduction or as a separate tax charge, and how to apportion the liability between group entities in the jurisdiction.

The UK rules: As set out above, a person must be chargeable to multinational top-up tax before any charge under the can arise. A member of the group is charged to tax under the UTPR if an untaxed amount (or part of it) is allocated to the group member. Chapter 9A allocates a proportion of the 'untaxed amount' (broadly, an amount that hasn't been allocated under the IIR) to the UK based on the UK's share of the group's employees and/or tangible assets located in jurisdictions that have implemented a UTPR. The default rule is that this 'UK proportion' is then split between UK members of the group based on their share of the UK tangible assets and employees, although groups can elect for one UK member to be allocated the entire UK proportion.

UK domestic top-up tax

The UK domestic top-up tax regime is based on the multinational top-up tax regime, with certain modifications. One important difference is that the domestic top-up tax regime also applies to wholly domestic groups, whereas the multinational top-up tax regime requires presence in the UK and at least one other jurisdiction.

Top-up amounts must be calculated for 'qualifying entities'. An entity is a 'qualifying entity' if:

- it is not a domestic top-up tax excluded entity;
- it is located in the UK; and
- it is either a standalone entity which meets the €750 million revenue threshold or a member of a group which meets that threshold.

The following entities are 'domestic top-up tax excluded entities': excluded entities under the multinational top-up tax regime; entities in domestic groups meeting the definition of investment entity or REIT; securitisation companies; standalone investment entities or investment entities that are members of a UK-only group; qualifying asset holding companies that are not members of a multinational group; and qualifying transformer vehicles.

The default rule is that the qualifying entity with the top-up amount is the entity that is charged domestic top-up tax on that top-up amount. However, investment entities that are members of a multinational group cannot be charged domestic top-up tax, meaning such an investment entity's top-up amount can only be charged to UK domestic top-up tax if there is another qualifying member of the group. An annual election can also be made so that one member of the group pays UK domestic top-up tax on behalf of the group.

Safe harbours

There are three safe harbours.

- **Transitional safe harbour:** This safe harbour allows groups to use figures calculated for the purposes of country-by-country reporting to assess whether a top-up amount is likely to arise for a territory. If these simplified calculations indicate that there would be no top-up tax chargeable, the group is treated as having no tax charge and does not have to undertake the full effective tax rate calculations. At least one condition (threshold test, simplified effective tax rate test or routine profits test) must be met and an election must be made to access this safe harbour. It only applies to accounting periods beginning on or before 31 December 2026 and ending on or before 30 June 2028.
- **QDMTT safe harbour:** Certain QDMTTs will be accredited for the QDMTT safe harbour. Where a QDMTT is accredited, group members in the territory covered by the QDMTT may be treated, by election, as having no top-up amounts or additional top-up amounts.
- **UTPR safe harbour:** This safe harbour applies to shelter the profits of the ultimate parent (provided the ultimate

parent jurisdiction has a corporate tax rate of at least 20%). It only applies to accounting periods commencing before 31 December 2025 and ending before 31 December 2026.

Administration

Information return and registration

The Pillar Two information return is a standardised template that provides a tax authority with the information required to calculate a multinational enterprise group entity's tax liability under the Pillar Two rules.

The default rule is that each entity in the group has to submit an information return in the jurisdiction where it is located. However, entities are discharged from this obligation if the ultimate parent or a designated filing entity submits such an information return, and the filing jurisdiction has a bilateral or multilateral agreement for the automatic exchange of information returns with the local competent authority.

Information returns must usually be filed within 15 months of the end of the financial year in question. For the first year that Pillar Two rules are in force, the filing deadline is extended to 18 months. For a group with a calendar financial year, the information return for the 2024 period must be filed by 30 June 2026. The filing member must also register with HMRC within six months of the end of the first accounting period in which the group is a qualifying multinational group.

Payment of taxes

The payment dates for multinational top-up tax and UK domestic top-up tax are aligned with the information return filing dates.

If a member of a group has not paid multinational top-up tax/UK domestic top-up tax within three months of the 'relevant date' (usually the due date, althought this could be a later date in the case of enquiries, etc.), HMRC can issue a 'group payment notice', requiring payment of the tax, to any person who was a member of the same group as the entity with the primary liability in the accounting period to which the amount payable relates.

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Eligibility for R&D tax relief

Subcontracted or subsidised?

Two recent R&D cases, finding in favour of the taxpayer, revolved around whether R&D activities were subcontracted or subsidised, impacting the eligibility for tax relief.

by Michael Crosson and Nigel Holmes

Key Points

What is the issue?
The Finance Act governs R&D tax relief rules, including definitions and claimable costs. Despite no legislative changes, HMRC updated its guidance in 2021, altering interpretations of subcontracted and subsidised R&D.

What does it mean for me?
The changes led to inconsistencies between HMRC and taxpayers' interpretations, causing confusion and disputes, as illustrated in the recent First-tier Tribunal cases of *Collins Construction* and *Stage One Creative Services*.

What can I take away?
The tribunal rulings, though not setting a binding legal precedent, provide clarity and reassurance for taxpayers. HMRC's decision not to appeal suggests a potential shift towards more nuanced definitions of contracted R&D, benefiting future claims under the SME and RDEC schemes.

In November, the First-tier Tribunal recorded the second significant taxpayer victory in research and development (R&D) cases in a matter of weeks. HMRC had taken both cases – *Collins Construction Ltd v HMRC* [2024] UKFTT 951 and *Stage One Creative Services Ltd v HMRC* [2024] UKFTT 1059 – to the tribunal on the argument that the activity claimed had been subcontracted to the taxpayer by customers and/or had been subsidised indirectly by related revenues.

However, in both instances, the judge found that the pertinent facts did not meet the definitional threshold for these classifications and allowed the claims as they had originally been submitted.

Following these eagerly awaited First-tier Tribunal results, we shall examine why these claims reached this point, how the results impact HMRC's recent and new positions, and what it means for any live enquiries tied up on this topic.

The legal framework and changes to HMRC's guidance

The R&D tax relief rules are set out in Part 13 of Corporation Tax Act 2009. Everything from the rates of relief, claimable costs and even the definition of R&D are all stipulated within this legislation and related guidance.

Prior to major scheme overhauls in 2023, the rules on subcontracted and subsidised R&D – stipulated within the Corporation Tax Act 2009 ss 1138 (for SMEs), 1052 and 1053 – hadn't changed. One might think, then, that HMRC's stance on the subject would have remained consistent throughout that time.

Despite this, on 30 November 2021, HMRC updated its Corporate Intangibles Research and Development (CIRD) Manual with new guidance. CIRD 84250 and 81650 – their interpretations of the Corporation Tax Act text around subcontracted and subsidised costs – were amended, significantly changing their meaning.

This change in guidance is the core reason for such turbulence regarding subcontracted and subsidised R&D and has surely led to an inconsistency between HMRC and taxpayers' interpretations of the presiding legislation. Here, we take a look at the previous and updated texts from HMRC's CIRD Manual, and why they have caused so much ambiguity.

The scope of R&D activities

The changes have created confusion and uncertainty around the scope of R&D activities eligible for tax relief, especially in industries like construction, creative services and engineering, where R&D may be embedded within larger commercial projects.

Consider a construction company which is contracted to design and build a new high-rise tower. It may need to carry out R&D in order to manifest an innovative structure that achieves an architect's design concept. Under the earlier guidance, the contract for services would include designing and building the building; and the R&D activity (researching and developing methods to achieve a concept structure) would be distinct from this. This would mean that the construction company could claim for the R&D under the SME scheme (large company measures allowing).

Under the new guidance, as there was a contract in place whilst the R&D occurred, even though the R&D wasn't the subject or focus of the commercial agreement, then the activity would be classed as contracted to the builder, preventing the builder from claiming under the SME scheme (or perhaps from claiming at all).

Subsidised expenditure

This is mirrored in the approach to subsidised expenditure. In the 2021 updates, HMRC provided more information on what it considered to be subsidised, stating: 'Payment received for undertaking a contract will be considered to meet expenditure incurred in undertaking that contract.'

This is a very broad statement and provides scope to apply this rule widely to individual projects with very different commercial dynamics. Further, this is in direct contradiction to a 2021 First-tier Tribunal judgment, which was decided against HMRC shortly before these changes to the CIRD Manual were made.

> **The changes have created confusion and uncertainty around the scope of R&D activities eligible for tax relief.**

In *Quinn (London) v HMRC* [2021] UKFTT 437, HMRC claimed that costs incurred on R&D were 'met ... indirectly' by Quinn's clients; and were therefore subsidised by virtue of Corporation Tax Act 2009 s 1138(1)(c) 'to the extent that it is otherwise met directly or indirectly by a person other than the company'.

Quinn argued that the contracts it engaged in were contracts for services (i.e. finished building works); that it was liable for the workmanship, adequacy of materials and insurance liabilities; and that it needed to meet these obligations through its own expenditure.

Judge Morgan found in favour of Quinn, on the basis that there was an 'absence of a clear link between the price paid by the client/customer and the expenditure on R&D'. In other words, there was a dissociation between what the customer was paying for and the R&D costs – there was no intrinsic link between the two – and so the expenditure had not been 'met directly or indirectly by a person other than the company' as per CTA 2009 s 1138(c).

The approach of Judge Morgan was adopted in the Upper Tribunal case of *HMRC v Perenco UK Ltd* [2023] UKUT 169. Although *Perenco* concerned a different statutory regime, the judges applied a similar approach as Judge Morgan, stating that 'para 8 [pertaining to subsidies] does not encompass a payment made in return for the provision of goods or services'.

The recent R&D findings

Given this ambiguity around subcontracted and subsidised status, two lead cases were recently decided at the First-tier Tribunal, with many more standing behind them.

The case of *Collins Construction*

In the case of *Collins Construction*, HMRC's case for subsidised expenditure reflected the same arguments as those it made in *Quinn*. Given that the legislation (s 1138(1)(c)) on subsidised expenditure states that expenditure shall be classed as subsidised 'to the extent that it is otherwise met directly or indirectly by a person other than the company', HMRC submitted that Collins' customers had paid for the R&D activity indirectly, since Collins had received payments at an agreed price for a service or product (construction activity) that it provided using the relevant R&D.

Judge Sukul stated that HMRC seemed to consider s 1138(1)(c) as not being 'constrained, coloured or shaped' by reference to ss 1138(1)(a) or (b). This would mean that 'expenditure otherwise met directly or indirectly' would include expenditure covered by revenues from R&D derived outputs, rather than referring to grants, state aid or other less conventional forms of subsidy.

However, Judge Sukul ruled that the 'natural interpretation of these provisions ... is not intended to apply in circumstances such as those in this case'. She particularly drew attention to the need for a clear link between the revenues that the claimant received and their expenditure on R&D. She stated that in ss 1138(1)(a) and (b), the wording 'obtained ... in respect of' sufficiently indicates that an intrinsic link between the revenues received and the R&D costs should exist, in order for that expenditure to be deemed subsidised.

She goes on to say that, in the case of Collins' projects:

> 'The price which is then agreed may or may not in fact be sufficient to cover the costs actually incurred ... with the appellants simply factoring costs such as those relating to R&D into the price it wishes to charge in order to seek to achieve its desired commercial return.'

The case of *Stage One Creative Services Ltd*

These sentiments were echoed in the *Stage One Creative Services Ltd (SOCS)* result.

In this case, Judge Scott cited that while the agreed 'price might, and clearly sometimes did, change' throughout the duration of a project, it also was relevant to consider that 'it also might not suffice to cover the costs incurred when fulfilling the contract'.

What was very important here is that SOCS made an outright loss on one of the three example projects analysed. Specifically, the R&D project required more man-hours for prototyping and testing than had been anticipated, increasing the costs, which were not passed on to the customer. Such facts clearly demonstrated that there was no intrinsic link between the R&D activity and the revenue that SOCS received, and therefore the costs had not been 'met directly or indirectly by a person other than the company'.

Although the subsidised category is discontinued in the merged R&D Expenditure Credit (RDEC) scheme, Judge Scott's view here aligns with the view of project ownership taken in the merged RDEC scheme, where technical knowledge, IP ownership and understanding of specific technical challenges are all pertinent points of consideration when determining the rightful claimant to a project.

Subsidised expenditure across industries

For those claims currently tied up in an enquiry on this argument, and those yet to be submitted under the SME and RDEC schemes, these rulings might be seen as highly generous to the claimant, particularly for certain industries. One might be able to see how the facts of the cases match with HMRC's recent CIRD Manual guidance on subsidised expenditure. However, as described later in the article, Judge Scott was aware of this alteration in opinion within HMRC and instead applied the logic of HMRC's previous guidance notes.

Having reviewed the cases of *Quinn*, *Collins* and *SOCS*, it seems likely that the majority of construction and engineering activities would not be deemed subsidised, given the lack of connection between prices charged for services and the costs of specific R&D activities. However, for other industries, such as software development, where time is more likely to be charged out to customers at an hourly rate which is recorded and billed, there is more likely to be an intrinsic connection between the money flows, and these costs could be more likely to be classed as subsidised.

Somewhat surprisingly, the contracted argument received much less explanation in the conclusion notes of both Judge Sukul and Judge Scott.

Historic guidance favoured by judges

In the case of *Collins*, HMRC's position was that since Collins had entered into contracts including 'design, manufacture and construction obligations' and the expenditure was incurred to fulfil those obligations, the activity should be deemed as contracted to them. This was supported by numerous examples of requirements that should be delivered by Collins as part of their contract with their customer to a fairly high degree of specificity; for instance, brass cladding to several fire escape doors on one of the sites.

> **Both Judges Sukul and Scott were careful to review the purpose of the contracted R&D provisions.**

Collins' position was that since the R&D activities specifically were not required by the terms of the contract, nor did the parties reasonably know that they were needed at the time of signing, then the activity itself was not contracted to them. This position is in line with HMRC's historic view on subcontracted activity, and very much in line with HMRC's upcoming view of contracted R&D under the merged RDEC scheme and the enhanced R&D intensive support (ERIS) scheme.

Judge Sukul also supported Collins' position in her decision. She used the fire escape doors as an example – incorporating brass into the doors reduced their resilience to fire, and R&D was conducted to improve this resilience whilst still incorporating the brass. The R&D needed to achieve this was not contracted to Collins.

Collins stated that they hadn't known this R&D was needed at the time of the contract; that the customer had no technological expertise to understand the issue; and that they themselves retained the IP generated from the exercise. Furthermore, many specifications within these contracts led to R&D activities being 'indistinguishable from those that did not lead to R&D'.

Judge Scott took much the same view in her assessment in the case of *SOCS*.

Both Judges Sukul and Scott were careful to review the purpose of the contracted R&D provisions, including preventing market failure associated with enhanced reliefs hitting large companies, and the more common prospect of double claiming. However, Judge Scott states:

> '[Since] SOCS' clients did not know the detail of any R&D or the extent, if any, of R&D there could not be competing claims for R&D. In circumstances where SOCS owned the intellectual property at all times, we heard no evidence as to how a client could claim for R&D in that regard.'

In both cases, the claimant's customers couldn't argue an entitlement to claim themselves; therefore, both judges deemed that the claimants owned the R&D activity. They denied HMRC's view that the activity had been subcontracted and awarded that the claims could remain in full under the SME scheme.

Once again, these decisions have been taken based on historic HMRC guidance on the topic.

The new guidance states that:

> 'Where there is a contract between persons for activities to be carried out by one for the other, and those activities form the whole of an R&D project or are part of a wider R&D project, then R&D activities have been subcontracted.'

However, instead of agreeing with the new guidance, Judges Sukul and Scott took a nuanced approach based on myriad transactional factors such as knowledge and understanding of the activity, awareness of the extent of the activity, financial risk and intellectual property ownership.

One wonders whether HMRC would have carried these cases this far had it not changed the CIRD Manual to these new definitions.

The key difference between *Collins* and *SOCS*

The *SOCS* case differed from *Collins* in a key way. HMRC was pursuing discovery against SOCS for prior accounting periods, arguing that SOCS's tax returns contained an under-declaration of tax due to a mistake in the returns in relation to the prevailing general practice of the time. In other words, HMRC was attempting to extend the enquiry, and therefore tax repayment, to the two prior accounting periods. It was trying to do so based on its current published view on subsidised and subcontracted R&D, which – as already discussed – changed dramatically in 2021.

Ryan's Director of Tax, Nigel Holmes, was brought as a witness to attest to HMRC's change in interpretation. Much evidence was given on the matter of 'the practice generally prevailing', including witness examination and cross-examination, reviews of minutes and notes from HMRC's own meetings of the Research and Development Communication Forum, as well as an assessment of contemporaneous literature.

To summarise all this evidence, the important facts laid out by Judge Scott were that, despite its claims to the contrary, HMRC's altered Corporate Intangibles Research and Development guidance did remove the nuance from the assessment, and 'made it clear that only freestanding R&D [that not instigated by the needs of an end customer] could qualify'. Furthermore, regarding the guidance on subsidies, where the old guidance said that 'there had to be a clear and direct link', the updated guidance notes said instead that 'payment under a contract would be such a link'.

Judge Scott concluded that there had been a practice generally prevailing based on the earlier version of the CIRD and that SOCS' returns had been submitted in accordance with it. Her conclusions will be helpful for many claimants embroiled in enquiries on this topic.

Conclusion

The justifications for the rulings are clear and understandable, and underpinned by a logic not dissimilar to HMRC's own rules on contracted R&D in the merged RDEC and ERIS schemes. It might seem that HMRC's shift back towards the nuanced definition of contracted R&D is for the best. Hopefully, it will bring clarity and consistency back into what has been an unclear and contentious topic. Surely the removal of the subsidised category will contribute to such a movement.

Either way, although First-tier Tribunal cases don't set a binding precedent, HMRC has chosen not to appeal either of them, so the many enquiries still resting on this will hope that HMRC applies these rulings and closes in the claimant's favour. And, for those yet to claim under the SME and RDEC schemes, hopefully this brings certainty and reassurance to claim submissions.

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Pleading the amendment
The power of a single word

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We consider a case where a taxpayer tried to revise her own Self Assessment return, which rested upon whether her request should have been to amend or appeal.

by Keith Gordon

The Self Assessment rules are prescriptive. Presumably, the main reason for this is to ensure that a taxpayer's duties and HMRC's powers are clearly defined. However, 30 years after the rules were first enacted, uncertainties remain. The latest case to consider these rules is *Sarah Yaxley v HMRC* [2025] UKFTT 51 (TC).

The facts of the case

The case concerns Mrs Yaxley's 2018 tax return. This was submitted on paper on 23 August 2018. Within the return, Mrs Yaxley had identified a chargeable event which qualified for top slicing relief under the rules in the Income Tax (Trading and Other Income) Act 2005 s 535.

As Mrs Yaxley's return was on paper, and on time, Mrs Yaxley invited HMRC to calculate the tax liability for the year, which it duly did. In doing so, the top slicing relief given to Mrs Yaxley was £8,778.80.

However, what Mrs Yaxley did not know at the time was the fact that HMRC's method for calculating top slicing relief was being challenged in the tribunals. On 18 April 2019, the First-tier Tribunal released its decision in *Silver v HMRC* [2019] UKFTT 263 (TC). That decision showed that HMRC's interpretation of the rules was incorrect and, in some cases, understated the amount of relief available to taxpayers. HMRC subsequently appealed against the First-tier Tribunal's decision to the Upper Tribunal but abandoned the appeal on the day that it was due to submit its skeleton argument (14 days before the scheduled hearing date the following March). Having been advising Mrs Silver, it is certainly my opinion that HMRC had no intention of pursuing the case and merely kept it alive for as long as possible for tactical reasons.

> **Mrs Yaxley asked HMRC to accept her letter as an appeal against its preferred calculation.**

In the meantime, Mrs Yaxley (now aware of the *Silver* case) decided that she wanted to take advantage of the methodology that the First-tier Tribunal had approved in the *Silver* case, rather than that applied by HMRC. By a letter dated 15 August 2019, Mrs Yaxley sent in what she believed to be the correct calculation, asked HMRC to explain its calculation and, in the meantime, asked HMRC to accept her letter as an appeal against its preferred calculation. Ten days later, Mrs Yaxley wrote again to HMRC and supplied the detailed calculations she believed to be correct and asked HMRC that the detailed calculations be used to support her appeal.

Six months later, on 11 February 2020, HMRC replied. It explained that legislative changes following the introduction of the nil savings rate in 2016 had led to 'ongoing issues … [which] have made the calculation of liability much more complicated'. Nevertheless, HMRC stated that the calculation of relief of £8,778.80 was in accordance with its then current interpretation of the law. (It was only four weeks later that it threw in the towel in the *Silver* case, so it is of course possible that HMRC already knew that its position was untenable. However, as at 11 February 2020, it was still HMCR's official policy that the *Silver* case had been wrongly decided.)

Key Points

What is the issue?
The complexities and uncertainties surrounding the Self Assessment rules in the UK tax system are highlighted by a case where a taxpayer, Mrs Yaxley, attempted to revise her Self Assessment return. The case highlights the importance of using precise language in tax-related communications.

What does it mean for me?
HMRC calculated Mrs Yaxley's tax liability, but the case of *Silver v HMRC* later revealed that its interpretation understated the relief available. Mrs Yaxley attempted to correct her tax calculation by writing to HMRC but her request was not resolved before the amendment period expired. Consequently, she appealed to the First-tier Tribunal.

What can I take away?
Taxpayers should use precise language when dealing with HMRC. If revising a Self Assessment return, they should request an 'amendment'; and only use 'appeal' when there is an appealable decision. This aims to prevent misunderstandings and ensure that taxpayers' intentions are clear to HMRC.

However, what was more critical in Mrs Yaxley's case is what had happened 11 days before the February letter. On 31 January 2020, the period for Mrs Yaxley to amend her 2018 tax return expired.

As correspondence with HMRC was not resolving the issue, it appears that Mrs Yaxley then notified her appeal to the First-tier Tribunal in late 2023 or early 2024. HMRC responded by saying that the tribunal did not have jurisdiction to hear the appeal and asked it to strike out the appeal. The tribunal's decision in respect of this strike-out application is the subject of this article.

The First-tier Tribunal's decision

The case came before Tribunal Judge Michael Blackwell.

The judge noted that Mrs Yaxley had effectively delegated the task of calculating her tax liability to HMRC (as she was entitled to do under the Taxes Management Act (TMA) 1970 s 9(3)). However, as provided for by s 9(3A), HMRC's calculation is still to be treated as the taxpayer's 'self' assessment.

Accordingly, the right of appeal conferred on taxpayers by TMA 1970 s 31 is excluded because (so far as is relevant to this case) it provides a right to appeal only against 'any assessment to tax which is not a self-assessment'.

In short, Mrs Yaxley could not validly appeal against the HMRC calculations of her tax liability for the year. As the tribunal's jurisdiction is itself dependent on there being a valid notice of appeal (TMA 1970 ss 48(1)(b) and 49A), the judge was forced to agree with HMRC that the tribunal had no jurisdiction to consider Mrs Yaxley's case. That fact then engaged rule 8(2)(a) of the tribunal's procedure rules, which requires the tribunal to strike out any case where it does not have jurisdiction.

For these reasons, Mrs Yaxley's appeal was struck out.

Commentary

It is notable that the judge ended his decision by identifying a number of reasons why he thought HMRC's conduct in this case was unhelpful, concluding 'it is not how one would hope to see HMRC treat a customer'. For example, he noted that the purported appeal in August 2019 was not responded to with the helpful suggestion that Mrs Yaxley ask HMRC to amend her Self Assessment (and that when it did respond six months later, it was just after the time limit for such an amendment had expired). The judge also regretted the fact that HMRC had failed to acknowledge that Mrs Yaxley's preferred computation was clearly tenable and, indeed, by then had been given the approval of the First-tier Tribunal.

From my experience in other cases, HMRC considers itself able to disregard decisions of the First-tier Tribunal, as they do not constitute binding precedent. However, from my perspective, the concept of binding precedent is irrelevant in this regard. The principle means, I believe, merely that the First-tier Tribunal cannot bind itself and that parties are free to re-argue points that have been decided the other way. However, I do not think that HMRC has the right simply to disregard a decision of the First-tier Tribunal simply because it does not accord with the department's thinking, even if the point is being taken to the Upper Tribunal or beyond. As I have already noted, I do not believe that

HMRC mounted any serious challenge to the *Silver* decision and I take the view that its appeal to the Upper Tribunal was for presentation purposes.

It should also be noted that when HMRC has won a point in the First-tier Tribunal, it is very keen to argue that the principle of 'judicial comity' means that the First-tier Tribunal should be very slow to depart from that earlier decision, even if it is not strictly binding. This inconsistent approach to First-tier Tribunal decisions is, in my view, rather unfortunate given that HMRC is a public body which, one might have thought, should adhere to higher standards than from private bodies or individuals (see the *obiter* comment of Lord Neuberger in *HMRC v BPP Holdings Ltd* [2017] UKSC 55 – a case discussed in my article 'Paper tiger or hidden dragon?' in the October 2017 issue of *Tax Adviser*).

On the subject of broader principles, it should also be remembered what the Supreme Court had said in *HMRC v Tower MCashback LLP 1* [2011] UKSC 19: 'There is a venerable principle of tax law to the general effect that there is a public interest in taxpayers paying the correct amount of tax.'

In *Yaxley,* a taxpayer had expressed dissatisfaction with one aspect of her Self Assessment return, notified HMRC that she considered it to be wrong, and made it clear what she believed to be the right figures. Furthermore, Mrs Yaxley's figures did actually give 'the correct amount of tax' (and were in accordance with what was then recent case law of which HMRC were aware).

Even more importantly, Mrs Yaxley's communications in August 2019 were sent to HMRC at a time when, had she used the word 'amend' rather than the word 'appeal', HMRC would have been obliged to adopt Mrs Yaxley's figures. (If HMRC had wished to maintain its view that the *Silver* case had been wrongly decided, it should have opened an enquiry into the amended return. If, on concluding that enquiry, HMRC wanted to restore the original (i.e. wrong figures), Mrs Yaxley would have had an unfettered right to pursue her appeal and she would almost certainly have won her case.)

> **All that Mrs Yaxley did wrong was to use the wrong word in her correspondence with HMRC.**

In other words, all that Mrs Yaxley did wrong was to use the wrong word in her correspondence with HMRC. But what's in a name? That which we call an amendment by any other name should surely smell as sweet, when what Mrs Yaxley wanted was clear. Indeed, HMRC had not made any appealable decision against which Mrs Yaxley could appeal (as HMRC correctly submitted to the tribunal), so it is not a case where the use of the wrong word meant that Mrs Yaxley had embarked upon a journey that led to a dead-end.

In the circumstances of the case, Mrs Yaxley's letter could have meant only one thing, being that she was no longer content with the figures in her tax return and that she had alternative figures that she wished to use.

It is also interesting to contrast HMRC's conduct in this case with its approach to cases where an appeal is possible. In its Appeals, Reviews and Tribunals Guidance, HMRC acknowledges that taxpayers do not have to use the word 'appeal' in order to commence an appeal. An officer should interpret taxpayers' correspondence sensibly and, whenever a challenge is made to an appealable decision, it should be treated as an appeal even if the word 'appeal' is not used. By the same token, one might have thought that a taxpayer's letter challenging an amendable calculation should be taken as a request for an amendment, even if the word 'amend' is not used.

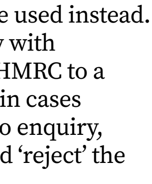
What is not clear from the decision is whether Mrs Yaxley has the desire to take the case further. It would certainly be pointless to ask for permission to appeal because the judge's decision is clearly unimpeachable. However, Mrs Yaxley should consider making a formal complaint or starting the process for judicial review. Judicial review is notoriously expensive but judicial review claims should be started with a pre-action letter to HMRC; i.e. before court costs are incurred. The purpose of that letter is to give HMRC an opportunity to change its mind before legal costs are incurred. (I am conscious that judicial review claims are subject to strict time limits but, in my view, this is one of those cases where a court should readily waive them.)

Armed with the fact that HMRC had chosen not to treat Mrs Yaxley's correspondence as a timely request for an amendment (which was the only legal step that Mrs Yaxley could have taken at the time), the further fact that Mrs Yaxley's amendment would have led to the correct amount of tax being payable (and therefore accorded with the venerable principle) and the fact that HMRC then left it until after the time limit for amendments before responding to Mrs Yaxley, one would like to think that HMRC would not be slow to do the right thing in this case if given a further chance. It is therefore to be hoped that the clouds identified in this case will eventually have a *Silver* lining.

What to do next

To avoid the rollercoaster that Mrs Yaxley has had to endure, the safest course of action is to ensure that the correct words are used. Therefore, the following steps should be taken:

- If a taxpayer wants to revise a Self Assessment return (even in cases where some of the figures used have been inserted by HMRC), the taxpayer should ask to 'amend' the return and identify the figures to be used instead.
- If a taxpayer is unhappy with amendments made by HMRC to a Self Assessment return in cases where there has been no enquiry, then the taxpayer should 'reject' the amendments.
- It is only in cases where the amendments have been made by HMRC in the course of an enquiry (or where there is another appealable decision) that the taxpayer should ask to 'appeal'.



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Key Points

What is the issue?
The basic rule under the corporate interest restriction is that, across a corporate group, deductions for UK interest expenses are limited to 30% of the group's UK earnings before interest, taxation, depreciation and amortisation – or the total finance expense of the group, if lower.

What does it mean for me?
Without further provision, this would severely impact many businesses that are highly geared for commercial reasons. Fortunately, certain elections are available that can, in some circumstances, mitigate restrictions – but the calculations can be complex, requiring group information which overseas parent entities may be reluctant to share, and great care must be taken to ensure such elections are validly made.

What can I take away?
The complexity of the regime is compounded by HMRC's strict approach to applying the administrative rules, so businesses with UK interest and other financing costs exceeding £2 million should consider obtaining specialist advice to avoid being caught out.

Don't get caught out

The corporate interest restriction

The corporate interest restriction rules have been in force since 2017, but uncertainties and unexpected outcomes can be eye-wateringly costly.

by Tim Douglas and Hannah Lloyd

Initially a response to the financial crises of 2008 and the high profile tax planning arrangements implemented by some of the world's largest multinationals, the OECD and G20's base erosion and profit shifting (BEPS) project resulted in radical changes to the corporation tax system in the UK and other countries. Amongst other measures, country-by-country reporting, the hybrid and other mismatches rules, and the 'Pillar Two' global minimum tax rate all originated in the BEPS project.

It is sometimes forgotten that the corporate interest restriction regime is a BEPS measure and, in terms of the number of taxpayers significantly affected, it is arguably the most consequential for UK companies. Unlike country-by-country reporting and Pillar Two, corporate interest restriction can affect businesses of any size, and unlike hybrid and other mismatches, there is no immunity for those that do not use unusual entities or instruments.

Although corporate interest restriction took effect in 2017, the scope and complexity of the legislation means that surprises and uncertainties continue to arise. A particularly topical issue relates to the administrative requirements, which can cause as much difficulty as the computational rules. Below we give an overview of the regime and outline why it is so important to pay attention to the details.

The basic rule

In the BEPS Action 4 report, the OECD/G20 recommended that jurisdictions impose a cap on deductions for interest and amounts economically equivalent to interest, which should be set at between 10% and 30% of earnings before interest, taxation, depreciation and amortisation (EBITDA).

In implementing that recommendation via the corporate interest restriction legislation, the UK stuck to the more generous end of the range. Deductions for interest and similar financing costs ('tax-interest') are, by default, capped at 30% of tax-adjusted EBITDA (tax-EBITDA). This cap applies at group level, so for any group the aggregate net UK tax deduction in respect of tax-interest across all companies cannot exceed 30% of aggregate UK tax-EBITDA. This is referred to as the 'fixed ratio' rule.

The Action 4 report acknowledged that countries may wish to include an appropriate de minimis level of interest expenditure to reduce compliance costs for smaller entities. The UK set its de minimis amount at £2 million, meaning that groups with less than £2 million of UK aggregate net tax-interest expense (ANTIE) are not required to take any action to comply with the regime.

In some respects, however, the UK 'gold-plated' the OECD/G20's recommendations. For example, the Action 4 report recommended that only expenses under derivative contracts related to borrowings should be included in tax-interest, but the UK has drafted its rules so that they can restrict deductions in respect of derivatives related to currency movements and price indices as well.

Perhaps the most significant respect in which the UK's corporate interest restriction legislation goes further than recommended by the Action 4 report relates to the incorporation of 'debt cap' provisions. Prior to the introduction of corporate interest restiction, the UK had introduced legislation designed to ensure that multinational groups could not avoid UK tax by using internal lending that left UK entities more highly geared than the group as a whole. This legislation was repealed when corporate interest restriction was introduced; however, to ensure that the new regime achieves the policy goals of the old one, an additional debt cap test was added to the fixed ratio rule. This means that the restrictions will also arise to the extent that ANTIE exceeds the total net finance cost shown in the group accounts, after certain adjustments are made (this is referred to as 'aggregate net group-interest expense', or ANGIE).

To address timing differences, the corporate interest restriction rules allow certain amounts to be carried forward and utilised in later periods. The carry forward rules allow a deduction for previously restricted interest if the company is a member of a group with headroom for deductions in a later period (subject to anti-avoidance rules relating to changes of ownership of companies with tax attributes). This is known as an 'interest reactivation'. Furthermore, unused headroom for interest deductions can be carried forward by the group and used to deduct interest that would otherwise be restricted in a later period. However, as a group attribute, unused headroom will be lost if the group ceases to exist (which it normally will do, for example, if the group is sold).

Elections

Limiting interest deductions to 30% of tax-EBITDA is a blunt tool that, without further provision, would cause serious problems for businesses that are highly geared for commercial reasons that have nothing to do with tax planning. To help those businesses manage the impact of corporate interest restriction there are two notable elections that can be made:

- the group ratio election; and
- the qualifying infrastructure company election.

The group ratio election is made at group level and provides an alternative to the fixed ratio, whereby deductions for UK interest expenses can exceed 30% of tax-EBITDA if that is consistent with the capital structure of the group as a whole. The principle is that, if the consolidated accounts show third party finance costs equal to, say, 50% of EBITDA, then UK group companies should be able to deduct tax-interest expenses of up to 50% of tax-EBITDA. However, the calculations are often challenging in practice, particularly where the UK entities have limited information about the wider group and overseas head offices are reluctant to share.

If the election is made, an alternative cap is calculated based on qualifying net-group interest expense (QNGIE) as a proportion of group-EBITDA. QNGIE is ANGIE after further adjustments to strip out related party interest expenses and similar amounts, and group-EBITDA is, broadly, the EBITDA of the group as derived from its consolidated accounts.

A qualifying infrastructure company election is made at the level of the individual company and can only be made by those engaged in infrastructure activities, as defined (the tests are tightly drawn, but can include property rental activities). The effect of the election is that interest payable by the company to third parties or other qualifying infrastructure companies will not generally be subject to restriction.

However, in calculating the tax-EBITDA of the group, the tax-EBITDA of a qualifying infrastructure company is assumed to be nil, and access to the £2 million de minimis is more complicated for groups that include a qualifying infrastructure company. This means that groups which include both qualifying infrastructure companies and other, non-qualifying companies may find making the election results in a greater restriction. Care should therefore be taken, not least because the election, once made, cannot be revoked for five years.

In addition, there are other elections that may be relevant to some companies, to ensure that the rules operate as intended and smooth anomalies between accounting and tax rules. These include, for example:

- elections that change technical aspects of the calculation of the group ratio, to address circumstances where the difference between the tax treatment of amounts in ANTIE and tax-EBITDA and the accounting treatment of those amounts in ANGIE and group-EBITDA depresses the group ratio;
- an election to ensure interest capitalised by property development companies is treated appropriately;
- elections affecting the treatment of non-consolidated investments and interests in partnerships; and
- elections governing the period for which group accounts are treated as drawn up when consolidated accounts are not, in fact, drawn up under acceptable accounting standards.

Administrative requirements

A fundamental principle of UK corporation tax is that a company is charged to tax based on the profits and gains it makes as a solus entity – there is no consolidation for tax purposes. Consequently, each company in a group is responsible for its own tax return, which must include a self-assessment of the tax that is due.

Without further provision, this would not sit easily with a regime like corporate interest restriction, which is based on complex calculations that are affected by the data of every company in the group. If those calculations result in a restriction on the deductibility of interest expenses for UK tax purposes, the restriction must be allocated amongst the UK companies.

To facilitate this process, the corporate interest restriction regime includes administrative provisions in Taxation (International and Other Provisions) Act 2010 Sch 7A (the main computational provisions are in Part 10 of that Act). The administrative provisions allow (but, importantly, do not require) a group to submit an interest restriction return. Certain group-level elections – most notably the group ratio election – must be included in an interest restriction return, which should also include a calculation of any interest restriction or spare capacity for the period, and an allocation of any restriction or reactivation that arises.

In order to submit an interest restriction return, the group must appoint a reporting company. The appointment must be authorised by at least 50% of the UK companies in the group, and must be submitted to HMRC, via commercial software or an online form, within one year of the end of the period of account of the group (which will normally be the period for which the ultimate parent of the worldwide group prepares financial statements). The appointment has effect until it is revoked or until the group ceases to exist.

If a group does not appoint a reporting company in the required timeframe, then HMRC can, at its discretion, appoint a reporting company on the group's behalf. However, such an appointment will typically only have effect for one period. In the absence of an appointment, the group must apply the fixed ratio rule to calculate any interest restrictions that arise, and each company in the group must disallow its pro rata share of any such restriction.

If a reporting company appointment is in place for a particular period of account of a group, that company must submit an interest restriction return within one year of the end of the period, which can be amended at any time up to three years after the end of the period. There is an exception for periods in which the group is not subject to restrictions (and has elected to prepare an abbreviated return that does not include detailed calculations). In that circumstance, the window for filing an amended interest restriction return is extended to five years.

Given that an interest restriction return can be amended after the normal two-year deadline for amending a company tax return, the administrative rules include special provisions to allow any necessary amendments to such returns that arise from an amended interest restriction return to be made after the normal deadline has passed.

Note that qualifying infrastructure company elections are made by the relevant company directly to HMRC, outside of the interest restriction return. The election must be made before the end of the first accounting period in relation to which it is to have effect.

Problem areas

Corporate interest restriction is increasingly an area of specialism in larger firms, and with good reason. There are countless examples of situations in which the rules, despite their detail and complexity, produce unexpected or uncertain outcomes. Three technical areas that the authors have recently had to consider relate to share disposals, hedging instruments, and merger accounting – but that is the tip of the iceberg. For the purposes of this article, it is perhaps useful to focus on one very topical issue concerning the administrative requirements outlined above.

For a lot of businesses, the ability to make a group ratio election will be key to managing the impact of corporate interest restriction – overall tax liabilities can increase by many millions if the fixed ratio is used. However, to make a group ratio election (or other potentially beneficial elections, or carry forward spare capacity for deductions) the reporting company must submit an interest restriction return.

This means that, unless HMRC's discretion is relied on (as explained below, this would be unwise), a valid reporting company appointment must be made before the tight deadline of one year after the end of the period of account of the group.

To illustrate how problematic this can be, here is a non-exhaustive list of things that can go wrong:

- failure to correctly identify the period of account of the worldwide group: for example, due to a change in ownership of the ultimate parent part way through its accounting period;
- failure to correctly identify the extent of the group: for example, where the ultimate parent is located overseas and does not share full information with its UK subsidiaries;
- errors in accounts that significantly impact interest expense or EBITDA that are identified after the deadline has passed; and
- misunderstandings between groups and their advisers, or mistaken assumptions about what has happened in the past.

All of this means that innocent errors can be incredibly costly, and businesses and advisers should take great care to ensure that they have met all the necessary administrative requirements. The difficulties are compounded by a change in HMRC's approach that was first outlined in Agent Update 109, published in the summer of 2023. Prior to that time, HMRC would generally appoint a reporting company for a period if asked to do so, but now it says that it will only make such an appointment 'where there is a risk that tax is at stake'. In practice, this seems to mean that HMRC will typically refuse to appoint a reporting company if the submission of an interest restriction return would enable the group to make beneficial elections that reduce the amount of interest disallowed.

It is reasonable to ask whether it is appropriate in an advanced tax system for minor failures in relation to complicated administrative provisions with short deadlines to impact tax liabilities so dramatically and irreversibly. Whilst deadlines are necessary for the tax system to function properly, it would arguably be more proportionate if the deadline for appointing a reporting company were aligned with the three-year deadline for amending an interest restriction return.

Summing up

The technical intricacy of the corporate interest restriction rules and the fact that they operate based on the accounts and tax computations of the group as a whole, rather than at individual entity level, means that they are unlike anything that has gone before them in the UK corporation tax code. Furthermore, the regime is still relatively young, so it is perhaps unavoidable that technical uncertainties and unexpected outcomes will arise from time to time. However, the resulting challenges for taxpayers and advisers are compounded by a complex set of administrative provisions that HMRC is applying very strictly.

The impact of the rules can be dramatic, but in some of the more extreme cases, elections can mitigate large disallowances, provided they are validly made. Consequently, business that could be affected – all of those that have, or may at some point have, UK interest and other financing expenses in excess of £2 million – should ensure that appropriate care and attention is given to complying with the administrative requirements, and consider obtaining specialist advice.

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Thriving by developing
Your unique genius

Our attitudes and perspectives can impact our professional and personal lives. We consider how to reinvent ourselves and expand what we believe we can do.

by Ruth Punter

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As we launch our small group workshops as part of our Returners 2 Work programme, we thought this would be a good time for us all to reflect upon our approach to work and life – the importance of what we want to achieve, how we develop the mindset that will get us there, and how we all have the potential to grow and learn...

The concept of 'genius'

The concept of 'genius' didn't start out as its popular usage today would have us believe – which would be something like 'exceptional intellectual or creative power or other natural ability'. This suggests that genius is a quality reserved for the lucky few who naturally excel at something, while the rest of us are destined for mediocrity.

In fact, the word's Roman origins suggest that a genius is a guiding spirit whose job it is to help us progress through life – and we each have one. You can read more about this in Myles Downey's book *Enabling genius: a mindset for success in the 21st century*. But, in summary, he invites us to take the limits off our performance by understanding that genius is available to all and that we can each develop a unique individual genius in any discipline, craft or skill.

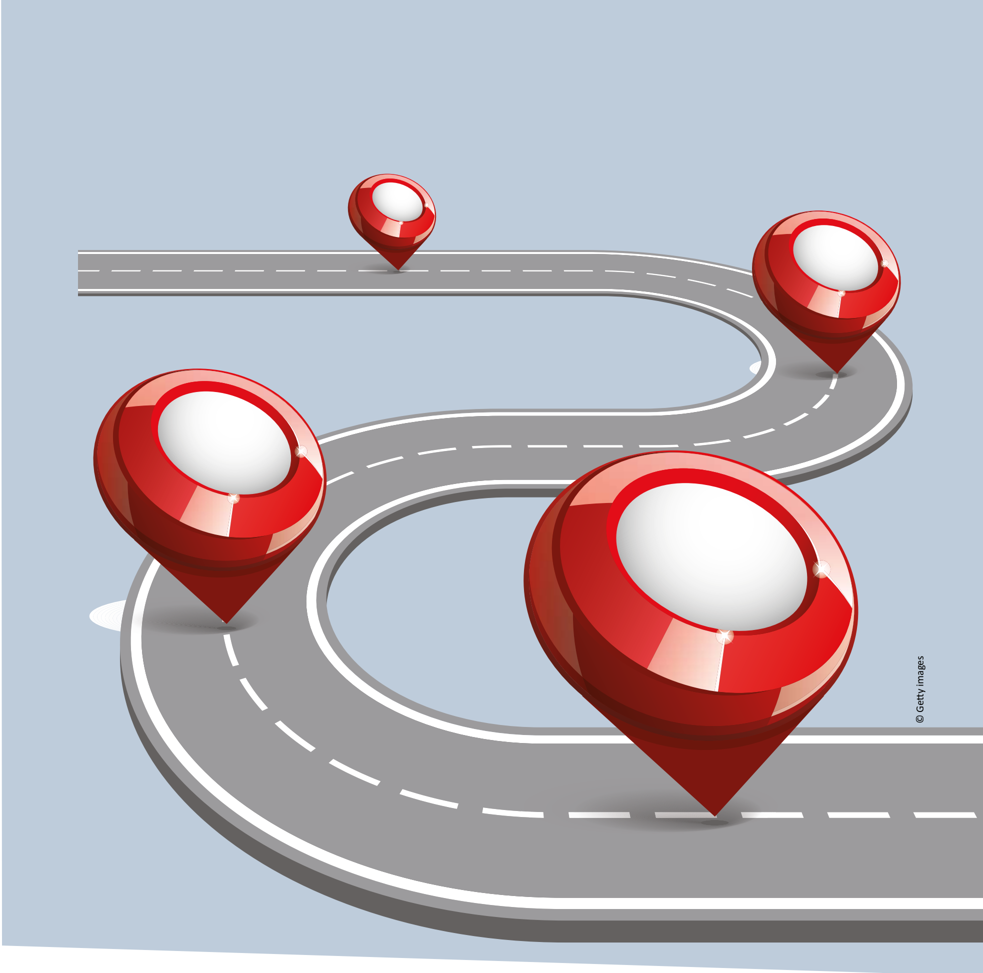
We build our genius through the principles of desire, mindset and identity, with learning at the centre of them all.

Desire: We are happier, more motivated and more productive when we have desire, or what might also be called drive. This is fuelled when our work is in service of a higher purpose, we have autonomy over it, what we are doing is inherently good or satisfying, and our progress and impact is visible.

Mindset: This is about aiming for, and believing, that we can achieve more, as well as eliminating things that diminish our performance and enjoyment. Those with a 'growth mindset' both seek and thrive on challenge, and we are at our most productive and satisfied when we are in what is called 'flow'. In a 'flow' state, we become absorbed, we lose self-consciousness and the worry of failing, and we may even lose track of time! Of course, we may still fail along the way so our mindset needs to accommodate the challenges, change and complexity we face in a way that we are enhanced, not diminished, by our experiences.

Identity: Assuming that with our 'growth mindset' we want to continue to grow and learn, then our identity will also be coming along for the ride. Just as our current identity has been built from the selection and interpretation of our experiences so far, we can continue to develop and edit our identity as we go. Rather than saying 'I am what I am', we can shape and reshape the things that make up who we are based on our situation, aspirations and intentions. If we see ourselves as works in progress, we can remove our own self-imposed limits to progression.

When referring to developing 'genius' in any skill, Myles Downey gives the example of a consultant developing their skill as a salesperson. This is hugely relevant to tax professionals, many of whom work in practice. Your progression as an adviser may well be stifled if, in addition to being great at tax, you are not able to sell your service. Too often, the belief that 'I can't sell' limits efforts to develop this skill and engage in the activities that drive sales success.



Learning

Our ability to learn is fundamental to achieving our potential – and the path to genius! Reflecting a mindset where we seek and thrive on challenge, we learn the most when we are attempting things that are harder than others are doing. We must practice them purposefully, with focus and clarity on the particular skill we are trying to refine, and do it in a way where we can get feedback.

What does this look like for increasing your success in generating new tax engagements? These may seem obvious but here are just some of the ways you can achieve your desires, strengthen your mindset and develop your identity:

- Pick up the phone more often, and attend networking events where your clients and potential clients may be. If you feel uncomfortable, it's because you are challenging yourself to learn something new. You might need to remind yourself of the things that feel second nature to you now but which you used to find hard.
- Observe others who do this well and ask them how they developed this skill.
- Look for courses to help you work on your skills and where you can receive immediate feedback on specific areas; for example, working a room, communicating your proposition, negotiating and closing a deal.

These are simply examples of how you can consider and reframe your identity. I invite you to think of your own 'I can't…' phrases and challenge your assumptions about what you can achieve.

An ongoing journey...

If you have already thought of a few areas where your 'identity' could be reshaped and your 'genius' developed, that's brilliant. Of course, this is not a one-off exercise but an ongoing journey of evolution, evaluation and reshaping. That said, natural points for reflection often arise after a major event or change outside of work, a change of role or job, or after some time spent away from work. Embracing genius and reframing your identity is even more important at these points.

That's why these frameworks will feature in the upcoming Returners 2 Work: Small Group Workshop Programme for members of the ATT and CIOT, which I'll be supporting (see the box for further details). The programme is aimed at those who are returning, or who have recently returned, to their role in tax following a period of absence (which could be as little as a few months or as long as a few years) for reasons that might include parental leave, caring, secondment or health.

For anyone in this position, there is likely to be a lot to consider around your career (on top of everything else you have going on). First of all, what about your capabilities?

There may be some rust there but with your ability to learn, and a bit of time and grace from colleagues, you will get back up to speed. But you will also have acquired new insights and perspectives that will enhance your capabilities, and you may have forgotten about some of the things you're great at that you take for granted. And perhaps your views of what you want and what you term a success have also developed since you were last in work.

I encourage you to set aside some time to reflect on this. And please do join us at the Returners 2 Work programme if you think you would benefit from support in your own return to work.

See www.tax.org.uk/returners-2-work-small-group-workshops-2025 for an outline of the Returners 2 Work programme. If you would like more information, please contact Ruth Punter or Emma Barklamb at ebarklamb@ciot.org.uk.

THE RETURNERS 2 WORK: SMALL GROUP WORKSHOP PROGRAMME 2025

This is a six-month programme, combining in-person and online group sessions, group and peer coaching, and the support of a community of fellow returners, for those who want to rebuild their momentum and their mojo after a period away from their role in tax.

Returning to a role after a period of absence can be challenging and disorientating. Far too many returners find it difficult to regather momentum or recalibrate their direction and can often lose their confidence in the process. But this does not need to be their experience.

Whilst the organisations in which these people work have a responsibility to address these challenges, there is also room for external support: through access to a community of individuals with shared experience, career and personal development content and tools focused on returning to work in tax, and coaching.

The ATT and CIOT are stepping into this space through launching this new programme, which is part of the wider Returners 2 Work programme, an initiative launched by the Joint CIOT/ATT Equality, Diversity and Inclusion Committee.

You can register your interest at: https://forms.office.com/e/jA6tg90UFm

WELCOME

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March Technical newsdesk

I am writing this introduction on my way into London for a roundtable with the Exchequer Secretary to the Treasury (XST) James Murray MP to discuss tax simplification. The roundtable was called at relatively short notice, just prior to the publication of the National Audit Office's report 'The administrative cost of the tax system', published on 10 February (tinyurl.com/yhv689wv). You will recall that, as stated in the October Budget:

> '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.'

This roundtable is therefore part of that engagement.

Having been in my role for over nine years now, and a tax professional for over 25 years, my perception of tax simplification is that it is something that has never been given much more than lip service. Yes, there have been some simplification measures in recent years (question – can you think of five?), as well as some measures that have been labelled as simplification (but are probably not). Yet, at the same time, a greater level of complexity has been added or proposed. You would be right in thinking that, along with many others working in tax, I had become rather jaded about the whole idea.

Simplification is much more than removing an existing complexity. It is a strategy or a mindset, not a sticking plaster. That is why, nearly two years ago, the professional bodies joined forces and wrote to the then Financial Secretary to the Treasury Victoria Atkins MP, setting out nine principles or processes that the government should adopt to deliver their pledge to 'embed tax simplification into the heart of government' (see www.tax.org.uk/ref1098).

This included recommendations such as ensuring that someone is responsible for the delivery of tax simplification, and that a simplification assessment is included in tax information and impact notes (or policy papers).

So, what, if anything, has changed? Well, several things. The most obvious is that we have a change of government, so we are starting again with a clean slate, so to speak, and we should not be influenced by what has gone before. We also have a very 'hands on' XST, who now chairs the HMRC Board, and is clearly keen to deliver on his priorities. And perhaps just a small but reassuring point is that HMRC and HMT have adopted, and updated with the XST's priorities, the simplification business case template that we prepared. This is a document that enables simplification ideas to be presented to government in a standardised fashion, setting out things such as the problem or complexity the suggestion addresses, the likely number of taxpayers affected, the likely impact on revenues, and so on.

We have shared the joint professional bodies' letter with the XST, in the hope that our suggestions can be implemented. We are also giving thought to the best way to capture ideas on the business case template, so watch out for more on this. I genuinely think that we have a fresh opportunity to make a difference.

NEWSDESK ARTICLES

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INTERNATIONAL TAX LARGE CORPORATE

Finance Bill 2024-25: International taxes

The CIOT sent a briefing to Parliamentarians on the clauses in the Finance Bill dealing with international tax.

Clauses 19 to 22 of the Finance Bill 2024-25 make changes to various international tax aspects of the UK tax code.

Clause 19 and Schedule 4 introduce the undertaxed profits rule (UTPR) into our Pillar Two rules, and also make various changes to the multinational top-up tax and the domestic top-tax. The UTPR is the backstop for Pillar Two. We said that we are supportive of its introduction because it serves to keep UK-headed multinational enterprises on the same footing as international investors. However, we also noted that, like digital services taxes, the effect of UTPRs, in particular on US-headed businesses, is one of the considerations in the debate about potential retaliatory measures such as tariffs. Thus, the introduction of the UTPR is not risk free.

We are supportive of the amendments to multinational top-up tax and domestic top-up tax, which generally seek to ensure that the UK's legislation is consistent with the rules, commentary and administrative guidance that have been agreed by the OECD/G20 Inclusive Framework. We said that while there are not many issues or concerns with the changes, there is an open point around the application of the transitional safe harbour anti-arbitrage rules in respect of which clarification would be welcome. The top-up taxes are complicated and burdensome and therefore further clarity around the transitional safe harbours is desirable, as well as progress towards a permanent safe harbour.

Our briefing also noted Pillar One, and suggested that it may be helpful for opposition MPs to press the minister during the debate on Pillar One. They should ask about the UK's plans for its digital services tax both if Pillar One is implemented and also if it is not. A review of the UK's digital services tax is due to take place this year.

Clause 20 repeals the rules on offshore receipts in respect of intangible property. We welcome this, as these rules are no longer necessary.

Clause 21 amends the rules on the application of PAYE in relation to internationally mobile employees, etc. The amendments allow an employer to self-certify the proportion of earnings liable to UK tax where an employee is either non-resident or qualifies for split-year treatment. We welcomed these changes, noting that the CIOT has previously called on HMRC to make such a change.

Finally, we also welcomed the changes to advance pricing agreements to be made by clause 22. These changes, which apply in relation to advance pricing agreements around indirect participation in financing cases, correct a technical gap in the circumstances in which an advance pricing agreement may be entered into.

Shadow ministers raised CIOT points on a number of these measures. Our full briefing on the international tax clauses in the Finance Bill can be found at: www.tax.org.uk/ref1455. A summary of the Public Bill Committee debates can be read at: www.tinyurl.com/25662xd5.

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OMB PROPERTY TAX

Finance Bill 2024-25: Property taxes

The CIOT provided a briefing to Parliamentarians on the property taxes clauses in Finance Bill 2024-25.

Furnished holiday lettings

Clause 25 and Schedule 5 provide for the abolition of the furnished holiday lettings (FHL) regime with effect from 1 April 2025 for companies and 6 April 2025 for other businesses.

Our overriding concern is that abolition of the FHL regime reopens the complexity of a dividing line between a trading and an investment (letting) business and may lead to costly disputes and litigation about where the line is drawn. We support a statutory 'bright line' test to remove uncertainty.

Following abolition, eligibility for capital gains tax reliefs, such as rollover relief and business asset disposal relief, will cease. It will be important that taxpayers thinking of disposing of their FHL business are fully aware of the time limits in which they are operating as action may need to be taken ***before*** 6 April 2025 to secure reliefs. We suggested the guidance issued to date by HMRC might be helpfully supplemented ***before*** April to remove uncertainties.

The availability of the subsidiary exemption where the conditions for the main substantial shareholding exemption were satisfied before 1 April 2025 also needs to be confirmed. The exemption could be relevant; for example, where a holding company has a subsidiary that held FHL properties, and the holding company is selling that subsidiary on or after 1 April 2025.

A married couple or civil partners who jointly own an FHL can allocate profits between them to take advantage of lower marginal tax rates. Post-abolition, jointly held FHLs will be within the normal '50:50 rule' for income tax purposes unless the couple make a valid election to split the income unequally using Form 17. That declaration cannot be backdated.

We think that providing the ability to backdate a declaration at least for the tax year 2025/26 would allow taxpayers to fix their position. It is a relatively small administrative easement that would assist taxpayers.

Sharia-compliant ('alternative') refinancing

Clause 35 and Schedule 7 removes liability to capital gains tax on the refinancing of a residential or commercial property using alternative finance. This issue affects refinancing using a Sharia-compliant structure of properties that do not qualify for capital gains tax private residence relief, such as rental properties, second homes and commercial properties. It applies to refinancing entered into on or after 30 October 2024.

We suggested that the clause is amended to exempt taxpayers from a capital gains tax liability on inherent gains realised on alternative finance transactions ***before*** 30 October 2024, as successive governments have supported and legislated for a level playing field between conventional finance and Islamic finance.

Similarly, clauses 54 and 55 make changes to the annual tax on enveloped dwellings regime to ensure that alternative property finance arrangements operate effectively. There are still other areas of the tax code (some stamp duty land tax reliefs, for example) that do not provide a level playing field for alternative finance arrangements. It would be preferable if these were also addressed in legislation at the same time, rather than the current piecemeal approach.

The CIOT's briefing was quoted extensively during the Finance Bill Public Bill Committee debates in the last week of January (see tinyurl.com/3zncjya2). A summary of the Public Bill Committee debates can be read at: tinyurl.com/25662xd5

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PERSONAL TAX EMPLOYMENT TAX OMB LARGE CORPORATE

Finance Bill 2024-25: ATT briefings

The ATT submitted Finance Bill briefings highlighting a sharp increase in the taxation

OMB

Finance Bill 2024-25: Employee-ownership trusts

The government tabled amendments to Finance Bill 2024-25 Schedule 6, making changes to employee-ownership trusts. These increase the scope of the new statutory relief for payments, which would otherwise be treated as distributions, from trading companies to their employee-ownership trust shareholders.

Following the October Budget, the CIOT made representations expressing concern about the narrow focus of the new distributions relief, along with the need to claim it, and the lack of any guidance from HMRC (www.tax.org.uk/ref1423). We also provided a briefing to Parliamentarians on this part of the Finance Bill (www.tax.org.uk/ref1457).

The tabled amendments to the Finance Bill broadened that relief to cover valuation fees and other direct acquisition expenses. The CIOT welcomes this as a step in the right direction, but the changes still do not address ongoing costs (such as professional trustees' fees) nor the administrative burden likely to be caused by having to claim the relief. The lack of any HMRC guidance since the Budget also remains a great concern.

We reported more fully on the changes to employee-ownership trusts in February's edition of Technical Newsdesk.

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of hybrid company cars, questioning the value of first year allowances for electric vehicle charging points, and raising a key concern regarding reforms to the taxation of non-UK domiciled individuals.

Hybrid cars

Clauses 5 and 6 of the Finance Bill set out the benefit in kind percentages for company cars which will apply from 2025-26 until 2029-30. The *appropriate percentages* for petrol and diesel cars will rise by 1% per year during that period. However, employees driving hybrid vehicles may be in for a shock, as might their employers.

Under current rules, the benefit in kind charge for hybrid company cars with CO_2 emissions of 1-50 g/km is based on their electric-only range – the further the car can travel on electric power only, the lower the benefit in kind charge.

Under clauses 5 and 6, the electric-only range will no longer be relevant from April 2028, with the benefit in kind rate being based purely on the emissions level. For the most efficient hybrid cars, this will result in an overnight increase in the appropriate percentage from 5% to 18% in April 2028. The benefit in kind charge for a higher rate taxpayer driving a £40,000 hybrid company car would increase by £2,000 in 2028-29 compared with the previous year, whilst their employer's Class 1A NIC liability would increase by £780 compared with 2027-28.

The ATT highlighted this issue due to concerns that these changes could take employers and employees by surprise. The relevant Finance Bill clauses do not refer specifically to hybrids, so their full impact may not be immediately apparent.

First year allowances for electric vehicle charging points

Current provisions enabling first year allowances (FYA) to be claimed on electric vehicle charging points were due to expire on 31 March 2025 for corporation tax purposes and 5 April 2025 for income tax businesses. Clause 24 extends the measures by one year for all businesses.

The ATT has queried the necessity of this clause on the basis that tax relief for vehicle charging points is also available via the annual investment allowance, or full expensing. Whilst full expensing is only available to limited companies, the majority of unincorporated businesses do not exceed their £1 million annual investment allowance limit, so would be able to deduct the cost of electric vehicle charging points in full without the need to claim under FYA.

The extension to FYA therefore appears to add complexity to the tax code for no practical benefit in most cases. The ATT suggested a review of the number of claims made for both income tax and corporation tax, and that the measure should be allowed to expire in 2025 if neither is found to be significant.

Reforming the taxation of non-domiciled individuals: loss of personal allowance and annual exempt amount

A key part of the measures reforming the taxation of non-domiciled individuals is the introduction of the foreign income and gains (FIG) regime for eligible individuals during their first four years of UK residence.

Under the FIG regime, claims can be made to relieve foreign income, foreign gains or foreign employment income from UK taxation, or a combination of all three. Claiming any one of these reliefs will result in the loss of both the income tax personal allowance and the capital gains tax annual exempt amount.

Whilst these consequences are comparable with the current remittance basis of taxation, the ATT has argued that the loss of both personal allowance and annual exemption is unfair, since overseas income and capital gains may well be unrelated both to each other and to UK-source income and gains. For instance, denying a personal allowance because a taxpayer claims relief for offshore gains would increase their marginal rate of income tax due on UK-source income.

Under the FIG regime, each of the above three claims to relief has to be made individually, offering scope to tailor entitlement to the personal allowance and annual exemption based on the relevant claim(s) made. That flexibility does not exist under the remittance basis, which applies to offshore income and gains together.

The ATT suggests that the effect of making a relevant claim under the FIG regime should be limited to the tax in question. For instance, claiming relief for foreign income under the FIG regime might understandably remove entitlement to a personal allowance for income tax purposes, but should not affect the availability of an annual exemption for capital gains tax. Equally, whilst claiming relief for foreign capital gains removes entitlement to the capital gains tax annual exempt amount, the income tax personal allowance should not be affected.

This point was one of several concerns raised by the ATT in its wider response to the legislation reforming the taxation of non-domiciled individuals (www.att.org.uk/ref472).

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PERSONAL TAX MANAGEMENT OF TAXES

Simplifying the taxation of offshore interest: HMRC consultation

CIOT, LITRG and ATT have responded to a recent HMRC consultation which considers how the taxation of offshore interest can be simplified.

The consultation explores whether the assessing period for non-UK ('offshore') interest should be changed to a calendar year basis, rather than the existing tax year basis, so that the interest taxable in a UK tax year would be the amount received in the calendar year ending in that tax year. The current basis of assessment can cause problems for both HMRC and taxpayers. HMRC usually receive details of offshore investment income on a calendar year basis under international automatic exchange of information (AEOI) agreements, and individuals will often receive details on a calendar year basis as well.

The CIOT's response

The CIOT is cautiously in favour of the proposal to change the assessing period for offshore interest to a calendar year. However, we are not in favour of it only applying to bank interest received from overseas. If introduced, it should apply to all overseas investment income (interest and dividends) and capital gains/losses shared under AEOI.

To mitigate the mismatch issues described in the consultation, and to keep it as simple as possible, the change should probably be mandatory. However, the CIOT also received feedback that calendar year reporting should be optional, as that will provide taxpayers with the flexibility to choose the option that best suits their personal circumstances.

We note that changing the basis of assessment could lead to confusion for taxpayers with offshore interest income and other sources of income being taxed on different bases, so any change must be clearly communicated. It will be important that HMRC factor in planned changes such as Making Tax Digital in deciding on any wider extension.

The CIOT suggests that the better solution would be to align the UK tax year to the calendar year, albeit the one-off costs of change would be significant, as highlighted in the 2023 report by the Office of Tax Simplification (tinyurl.com/4ua74n77). But we encourage the government to look again at this as it could potentially simplify the UK tax system in the long term and make compliance easier, particularly since more and more data is being shared internationally as new exchange of information agreements are developed, for example through the OECD.

LITRG's response

LITRG's response also acknowledges the benefits of aligning offshore interest reporting to the calendar year, aiding HMRC in data reconciliation and potentially simplifying processes for some taxpayers. However, we raise concerns about added complexity for taxpayers who receive interest from countries with non-calendar fiscal years.

Though the possibility of pre-populating tax returns or PAYE tax codes with overseas interest income might seem helpful, taxpayers still have an obligation to check and confirm that any pre-populated data is correct, so the complexity faced by those who receive offshore interest from non-calendar year countries will persist (and perhaps be exacerbated).

LITRG's comments also highlight the potential confusion around the personal savings allowance when assessing it against a combination of UK and offshore interest, suggesting the exploration of a separate foreign savings allowance to mitigate the problems that a move away from a tax-year assessment basis might otherwise present. Finally, LITRG took the opportunity to press HMRC for clarity generally on self-assessment requirements for foreign interest recipients where no tax is due.

The ATT's response

The ATT also recognises the potential benefits for both HMRC and taxpayers in assessing offshore interest based on the calendar year ending in a tax year. We suggest an alternative option would be taxing offshore income based on the relevant overseas fiscal year which ends in a UK tax year. In most cases, this would still be 31 December, but some jurisdictions' fiscal years do not align with the calendar year, as LITRG also noted. In such instances, reporting based on the overseas fiscal year would allow taxpayers to use figures provided by offshore investment institutions and should make it easier for HMRC to utilise AEOI data which is provided on a non-calendar year basis.

Above all, the ATT would like an 'opt-out' option for self-assessment taxpayers to depart from whatever reporting basis for offshore income becomes the default – for instance, to continue reporting based on the UK tax year if their investment institute summarises offshore income on that basis. This 'opt out' should be applied consistently and be properly disclosed to HMRC.

The ATT recommends that any change of reporting basis should be considered upfront for all overseas income, rather than introducing piecemeal changes for different income types.

Finally, the ATT expresses concern about proposals to pre-populate PAYE codes based on AEOI data to collect tax on offshore interest from taxpayers who do not otherwise need to be in self-assessment. Doubts remain as to the reliability of matching bank accounts with individual taxpayers, and agents still cannot digitally amend PAYE coding adjustments. The ATT says these issues need to be resolved before PAYE coding adjustments can be expanded to cover overseas interest.

The full CIOT response can be found here: www.tax.org.uk/ref1403
The full LITRG response can be found here: www.litrg.org.uk/11011
The full ATT response can be found here: www.att.org.uk/ref469

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MANAGEMENT OF TAXES

HMRC's Tax Administration Framework Review: new ways to tackle non-compliance

CIOT, LITRG and ATT have responded to an HMRC consultation which explores whether HMRC's approach to correcting mistakes, particularly by large numbers of taxpayers, could be improved.

The consultation sought views on four areas:

a) amendment to conditions for making claims;
b) reform of revenue correction notice conditions;
c) introduction of a partial enquiry; and
d) a new power to require taxpayers to self-correct their own return.

The CIOT response

The CIOT response begins with a general observation that HMRC appear to have paused more fundamental reform of the UK's tax administration framework, including the overhaul of their enquiry and assessment powers and the introduction of a new Taxes Management Act. The harmonisation and alignment of processes and powers across the different taxes remains uncertain as a result.

In our view, HMRC should be doing the harmonisation work first and forming a view on what the new processes should be across all the taxes; only then should they consider whether any of the new powers proposed in this consultation document are needed. Otherwise, they risk wasting time and resources introducing new legislation that may ultimately prove to be unnecessary, or which may make harmonisation more difficult.

We encourage HMRC to press on with their overarching review with the goal of making compliance checks more efficient for all from start to finish. Our comments on each of the proposals in the consultation document are subject to our preferred option of more fundamental reform.

In terms of the specific proposals, we note that there is a risk that their scope could be much wider than the mischiefs they are being created to address.

We agree that the proposal to introduce additional information requirements for making claims for tax relief and allowances could be a useful way to prevent incorrect or excessive claims, but it needs to be appropriately balanced with ensuring that legitimate claims are accepted and not deterred.

We support the proposal to introduce reform and alignment of revenue correction notice (RCN) conditions but believe that alignment should be to the more restrictive stamp duty land tax version, rather than to the corporation tax self-assessment or income tax self-assessment versions. They should never be used as an alternative or short cut to opening an enquiry.

We do not support the proposal to introduce a partial enquiry. HMRC already have sufficient enquiry powers and this proposal risks creating more uncertainty for taxpayers by the introduction of additional rules and thereby more complexity.

On the proposal to introduce a new power to require taxpayers to self-correct their own return, we believe it would be better to have a general statutory requirement to correct within a specific period when the taxpayer becomes aware of a mistake in their tax affairs, not just after HMRC prompt them about it (for example, by issuing a self-correction notice).

The LITRG response

The LITRG's response agrees with the CIOT's response, also saying that HMRC should continue to carry out work on reviewing the overarching tax administration framework. Nevertheless, we think it is important that HMRC continue to address and fix problems with the existing system in the interim, where harm is being caused to taxpayers. This is to ensure that trust between HMRC and taxpayers does not break down during the time taken to design and implement a new system.

The LITRG's response makes the point that before proceeding with any of the proposals, it is important for HMRC to clearly identify the risk, scale, drivers and cost of the existing problems. This will help them to determine whether the proposal will address the problems effectively and efficiently.

From the LITRG's experience, we think it is likely that, to some extent, the increase in low value inaccuracies is driven by high volume repayment agents. So, in addition to considering the options put forward in the consultation, we think HMRC should be checking the processes of high volume repayment agents from end-to-end for compliance with basic standards for agents and electronic communications processes.

We think it would be worthwhile for HMRC to further explore the proposal for amendments to conditions for making claims. We do not think it is unreasonable for HMRC to request supporting evidence for claims as a general principle. If HMRC introduce additional information requirements, they would need to make sure that the evidence they require is proportionate and relevant to the claim and ensure there is clear guidance as to what documents they would accept as evidence.

Although additional information requirements would place a burden on the taxpayer, we think they could also serve to protect the taxpayer, as this type of requirement is likely to disrupt the business models of high-volume repayment agents.

While we think some of the proposed reforms of RCN conditions could be effective, we also think that HMRC need to consider whether they could make better use of their existing powers to issue these.

We do not support the proposal to introduce a partial enquiry. It is not clear to us how this would assist HMRC, and we think there are several grey areas in respect of this proposal that could cause practical difficulties.

The final proposal is for a new power requiring taxpayers to self-correct their return. It is not clear from the consultation how this would interact with current powers to issue RCNs in respect of income tax.

The ATT response

As a general observation, the ATT consider that the strategic focus of the 2020 report 'Building a trusted, modern tax administration system' (tinyurl.com/mpsyh9vv) is being clouded by a series of consultations addressing current mischiefs in the tax system. The ATT support the need for HMRC to respond robustly to non-compliance in all its guises, but it is essential that the focus of the 2020 report is not lost.

Addressing the consultation areas, the ATT support the submission of additional upfront information for some reliefs and allowances, which could help HMRC make better judgments when claims are received, and payments could be processed and paid more promptly and with certainty.

The ATT agree that greater alignment of RCN conditions across all taxes could make them simpler and easier for HMRC to administer, and for taxpayers to understand and comply with their obligations.

Requiring HMRC to provide details of why an RCN is being issued could improve taxpayer understanding of the rationale for the correction and could promote transparency and openness, leading to greater trust in the tax system.

One area the ATT does not support is the introduction of a partial enquiry process. We consider that there are already adequate statutory provisions for enquiring into an aspect of a return or claim, and that creating more unnecessary legal powers undermines the drive to simplify the tax code.

Finally, the ATT consider that the requirement for taxpayers to self-correct could provide a 'lighter touch' for correcting errors or mistakes that HMRC are aware of from their data collection and interrogation, especially where the evidence is clear and unambiguous. This would provide a quick, efficient, less intrusive and cost-effective alternative to a full statutory enquiry.

The full CIOT response is available here: www.tax.org.uk/ref1405
The full LTRG response is available here: www.litrg.org.uk/11003
The full ATT response is available here: www.att.org.uk/ref470

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INHERITANCE TAX AND TRUSTS

Pensions and inheritance tax: a consultation

The ATT and CIOT have both raised concerns about potential complexities and unintended consequences of the proposals to subject unused pension benefits to inheritance tax.

The ATT and CIOT have both recently responded to the HMRC technical consultation 'Inheritance tax on pensions: liability, reporting and payment' (see tinyurl.com/2s3u4r46). The consultation was issued last year, following the announcement at October's Budget that, from 6 April 2027, any used pension funds or death benefits will be included within the value of an individual's estate on death and be subjected to inheritance tax (IHT).

Under the proposals, personal representatives (PRs) will be required to liaise with pension scheme administrators (PSAs) to establish the value of unused pension assets and then to allocate a proportion of the nil rate band to each pension fund. Each pension fund will then need to pay their share of IHT to HMRC before personal representatives can apply for probate.

Although the policy itself was not up for consultation – only the implementation – both the ATT and CIOT have suggested an alternative approach to taxing pension assets.

ATT response

Currently, PRs have little engagement with PSAs beyond informing them that the individual has died. In our response, we raised concerns about the cost, time and stress of the additional administration work the new measures bring, especially if an amendment is needed if assets are discovered after the IHT400 (the form used by PRs for reporting the value of assets in an estate liable to IHT) has been submitted.

The need to resolve the IHT position first – including to confirm that none is due – is likely to delay when PSAs can pay income or lump sums out to survivors. This could cause cashflow issues for some surviving spouses/partners.

The measures may also catch out unmarried couples who were envisaging that any undrawn pension assets would be available to support the survivor. As it stands, an individual with a defined contribution scheme could choose to nominate an unmarried partner to receive pension benefits after their death. Currently, the surviving partner only needs to consider any potential income tax implications, which will depend on how old their partner was at their death. But from 6 April 2027, the funds may first be reduced by an IHT charge. Married couples in contrast can continue to leave pension assets to each other free of IHT.

Given the administrative challenges, we think there would be merit in exploring a separate IHT regime for pensions which would help to meet the government's policy intention, without creating excessive burdens on PRs.

CIOT response

Although we commented extensively on the technical details of implementing the current proposals, we concluded that they are unworkable because there are so many working parts in an integrated IHT regime. Repeated liaison between the PRs and the various PSAs would be required whenever an additional estate asset was reported or a valuation changed, and whenever a further pension fund was discovered (the likelihood of the deceased holding a number of pensions is increasingly common). There would be delay in the process of PSAs determining how to exercise their discretion, and then in making payment to beneficiaries. The greater administrative burden on PSAs would inevitably have a financial impact on consumers in the form of increased charges.

We suggested an alternative approach, which is grounded on two premises. The first is that pensions (and the associated tax regime) are intended to provide for the member and their dependants following retirement by age or ill-health. The second is that the government's policy intention is to 'bring most unused pension funds and death benefits' into a tax charge on the member's death.

We recommended that this policy objective be achieved through an alternative approach of a separate inherited pension death benefit charge (IPDBC) payable by the PSA when the unused pension or death benefit passes to a beneficiary who is neither a spouse nor a dependant of the scheme member. There would be no need for the PRs to identify the deceased's unused pensions, or to supply any estate information to the PSAs. The PRs would administer the estate and deal with any IHT liability (as now) with little concern for the pension.

Each PSA would be solely responsible for ensuring the IPDBC is paid in respect of their own fund, without having to be concerned about other pensions and the free estate. The payment of the IPDBC could be dealt with through the form that PSAs already use to report any income tax liability to HMRC (the Accounting for Tax return), which PSAs are familiar with. This would negate the need (and cost) of setting up a separate, parallel IHT system. This approach gives certainty to the PSA and obviates the need for further adjustments.

We envisaged that the IPDBC be charged when the deceased member's fund passes to a person who is not a dependant as defined in FA 2004 Sch 28 para 15 for the purposes of a dependant's scheme pension. This would afford consistent treatment for the death benefits of defined benefit and money purchase (defined contribution) members. Broadly, a dependant is a spouse or civil partner; a member's child under 23, or 23 and over and dependent because of physical or mental impairment; or anyone else who was financially dependent on the member. The IPDBC would 'bite' when the fund passes to persons outside of that definition, typically to adult, self-sustaining children. Unused pension funds would therefore cease to be available as a tax planning tool to transfer wealth.

As all unused pension funds would be subject to the IPDBC (without the benefit of the deceased member's apportioned IHT nil-rate band), we suggested that the first £30,000 (mirroring the trivial commutation limit) be exempt. To avoid exploitation, that single allowance could be applied to all pension funds under the control of one PSA.

Recognising also that the IPDBC approach potentially brings into charge some unused pension funds which, even when aggregated with the deceased's free estate would have not incurred IHT, we suggested that the rate of IPDBC could be set lower than 40%, perhaps at 30% or 35%, to compensate. When determining the appropriate rate, the government would have to balance the attractiveness of imposing a rate equivalent to IHT with the fact that a basic rate or non-taxpayer might be more heavily taxed on their death in respect of their contributions than any relief they were given on making those contributions.

We concluded that an IPDBC designed along these principles would meet the government's policy objectives without the immense practical difficulties and costs associated with their IHT proposal.

The full ATT response can be found here: www.att.org.uk/ref471
The CIOT response can be found here: www.tax.org.uk/ref1404

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INDIRECT TAX

VAT registration: non-established businesses

The CIOT and ATT attend meetings with HMRC's Joint VAT Consultative Committee's VAT registration sub-group to discuss developments and experiences with VAT registration, as well as referring member feedback on this topic to the Joint VAT Consultative Committee.

When registering an overseas company for VAT results in a sole proprietor outcome

We reported in *Tax Adviser* in October 2023 (tinyurl.com/3pd32ume) and May 2024 (tinyurl.com/y22dmbmv) that the way the online VAT registration portal asks about the status of non-established applicants – that is, requiring you to choose either non-established taxable person (NETP) or non-UK company – results in an unintended outcome. The issue arises due to the definition of 'person' (i.e. the 'P' in NETP). In both legislation and the VAT guidance (tinyurl.com/26h8jufu), the definition of person includes 'legal or natural'; however, in the VAT registration portal, choosing the non-established taxable person option is resulting in a 'natural' person outcome. The earlier articles provide fuller details of the issue and how to resolve it.

The issue was reported to HMRC and the CIOT continues to raise it, asking for progress updates from the Joint VAT Consultative Committee's VAT registration sub-group. HMRC have said that the issue is a priority. However, it is part of a wider review for the VAT registration journey of non-established applicants, so a timeline for when it will be resolved is yet to be confirmed. In the meantime, we recommend that this issue is highlighted to colleagues dealing with processing online VAT registration applications for overseas businesses.

Registering for VAT by post

The GOV.UK guidance (tinyurl.com/7jedtf79) lists several scenarios where applicants may request to register on a paper form via post. This includes those that are digitally excluded, as well as those in the following circumstances:

- a limited liability partnership registering as a representative member of a VAT group;
- an overseas partnership;
- divisional registration (section 9 of VAT notice 700/2: tinyurl.com/2yvypsm9);
- a local authority, parish or district council; and
- temporary breach of registration threshold, known as an 'exception' to VAT registration (paragraph 3.7 of VAT notice 700/1 tinyurl.com/2s4adfb4).

HMRC state in guidance that they will consider other reasons, beyond those listed. We understand that this can also include the following scenarios for non-established businesses:

- a UK registered company that does not have a UK place of establishment (other than a 'brass plate' registered office);
- where an overseas director does not have a national insurance number or a unique taxpayer reference and the online portal will not accept the overseas tax identification number; and
- where an overseas director has a national insurance number or unique taxpayer reference but the online portal will not accept it.

The CIOT also raised the first point to HMRC for a fix within the online VAT registration portal.

Member feedback

We are always interested to hear member feedback highlighting particular difficulties when registering for VAT, either with the online portal or registration processes. Although this article considers issues for non-established businesses, we are happy to hear about VAT registration issues for UK businesses too. Please contact us at technical@ciot.org.uk.

Jayne Simpson *jsimpson@ciot.org.uk*

CIOT	Date sent
Visitor Accommodation (Register and Levy) Etc. (Wales) Bill www.tax.org.uk/ref1428	09/01/2025
The Tax Administration Framework Review: New ways to tackle non-compliance www.tax.org.uk/ref1405	17/01/2025
Finance Bill 2024-25 briefing: Clause 19-22 International matters www.tax.org.uk/ref1455	17/01/2025
Finance Bill 2024-25 briefing: Clause 25, 35, 54-55 Property taxes www.tax.org.uk/ref1456	17/01/2025
Finance Bill 2024-25 briefing: Clause 31 Employee-ownership trusts www.tax.org.uk/ref1457	16/01/2025
Finance Bill 2024-25 briefing: Clause 57-62 IHT www.tax.org.uk/ref1458	20/01/2025
Simplifying the Taxation of Offshore Interest www.tax.org.uk/ref1403	20/01/2025
Inheritance Tax on pensions: Liability, reporting and payment www.tax.org.uk/ref1404	28/01/2025
Finance Bill 2024-25 briefing: Part 2 Non-doms www.tax.org.uk/ref1454	27/01/2025
HM Treasury Spending Review 2025 www.tax.org.uk/ref1441	07/02/2025
ATT	
Simplifying the Taxation of Offshore Interest www.att.org.uk/ref469	20/01/2025
Inheritance Tax on pensions: Liability, reporting and payment www.att.org.uk/ref471	20/01/2025
The Tax Administration Framework Review: New ways to tackle non-compliance www.att.org.uk/ref470	21/01/2025
LITRG	
Senedd Finance Committee consultation on the Visitor Accommodation (Register and Levy) Etc. (Wales) Bill www.litrg.org.uk/11001	10/01/2025
The Tax Administration Framework Review: new ways to tackle non-compliance www.litrg.org.uk/11003	20/01/2025
Simplifying the taxation of offshore interest www.litrg.org.uk/11011	28/01/2025

Briefings

Tax report

HMRC need to break vicious cycle of 'failure demand'

National Audit Office report highlights cost of poor service levels.

Helen Thornley

Lindsay Scott

A new report on the rising cost of the tax system reinforces the need to invest in HMRC customer service, says CIOT. The NAO report found that the UK's 'increasingly complex' tax system is costing businesses £15.4 billion a year, while HMRC's own running costs are also rising.

Lindsay Scott, CIOT technical officer, said: 'The report backs up what our own research tells us – that whilst recent investment may have improved connection rates to helplines, there is still much to do to improve HMRC customer service.'

Helen Thornley, ATT technical officer, suggested that a renewed focus on simplification could reduce costs for all sides, and that greater stability and certainty in tax policy could also help.

The report states that almost three quarters of customer calls to HMRC are resulting from what the NAO calls 'failure demand' – calls caused by HMRC's process failures and delays, customers chasing progress, and customers' errors.

Helen Thornley said it is common for the Association's members to report needing to make repeated phone contact with HMRC to resolve issues. 'Developing and implementing better digital self-service options, particularly for agents, could relieve a lot of this pressure and result in cost-savings,' she suggested.

Lindsay Scott said the report highlighted 'the vicious cycle that "failure demand" is inflicting on HMRC customer services – repeated unnecessary contact incurring costs for all parties. The introduction of an automated progress tracking facility could play a key part in breaking this cycle.'

In a survey of tax agent interactions with HMRC last year, conducted jointly with ICAEW, CIOT suggested that HMRC could save an estimated 1.7 million hours of call handlers' time every year if it put a tracking system in place.

The CIOT welcomed the NAO's call for HMRC to be more ambitious in how it works with tax advisers and other intermediaries to reduce system costs and, in particular, their call for the government to commit to provide access to digital services to tax advisers on an equal footing with taxpayers.

Political update

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

Finance Bill 2024-25 passed through the Public Bill Committee in four sessions on 28 and 30 January. CIOT provided five briefings and ATT three to support the work of the MPs scrutinising the Bill at this stage. This was in addition to the four briefings CIOT provided for committee of whole house stage.

These briefings contain a mixture of explanation (what the clauses mean and the impact they will have) and representation (suggestions of ways in which the legislation might be improved). It was good to hear so many of our points being raised during the debate and perhaps even more so to see a couple of amendments tabled by the government in apparent response to our concerns.

Government amendments passed at this stage included an expansion of the scope of acquisition costs in relation to employee-ownership trusts that can benefit from CGT relief, which the minister told the committee had been done in response to CIOT concerns (albeit the Institute would have liked to see the scope expanded still further).

Among the legislation passed in committee was the abolition of the separate non-dom tax regime. The minister promised to respond in writing to CIOT concerns about retrospective application of the IHT exit charge for trusts and changes to the definition of 'remittance'. The government also amended the non-dom legislation to remove a drafting error which CIOT had pointed out.

ATT representations to the committee were drawn on during discussion of the extension of the first year allowance for electric vehicle charging points, and increases to company car tax rates.

Responding to CIOT concerns on the transitional safe-harbour anti-arbitrage rule (part of the Pillar Two legislation) the minister acknowledged the rule is flawed and told the committee that, if the opportunity arises, it is the government's intention to seek agreement to improve it.

A number of CIOT points were raised during discussion of the abolition of the furnished holiday lettings regime. The shadow minister closed his remarks by apologising for not being able to raise all of the Institute's points. He encouraged the minister to speak directly to CIOT on this area. The Exchequer Secretary responded by putting on record his thanks to CIOT: 'It was a great support to me in opposition and continues to be an important stakeholder for us in government.'

See also pages 43-44 for more on CIOT and ATT briefings on the Bill. More on the Bill at: tax.org.uk/finance-bill-2024-25.

Regulations
Working hours data plan scrapped

The government has scrapped plans to require employers to provide HMRC with data on the number of paid hours worked by employees following concerns from CIOT about the 'significant administrative burden' this would place on businesses.

The (Draft) Income Tax (Pay As You Earn) (Amendment) Regulations 2024 will not be progressed further after the results of a consultation were published in January. HMRC said: 'The government has listened to businesses and acted on their feedback about the administrative burden the requirements in these regulations would bring.'

The CIOT warned in May that the estimated one-off cost to businesses of £58 million and ongoing costs of £10 million – an average per business of £29 and £5 respectively – were 'significantly underestimated'. The Institute added it was unclear why HMRC wanted to collect this information and what they were going to use it for.

Eleanor Meredith, Chair of the CIOT's Employment Taxes Committee, said: 'We're pleased to see the government's decision not to progress this legislation. We raised several concerns about the proposal, primarily the extra burden this would place on businesses to provide much more detailed data to HMRC. It's reassuring that we, and other representatives, have been listened to during this process and our warnings heeded.'

Regulations
IHT on pensions could delay probate

Plans to charge inheritance tax on unused pension pots could lead to delayed probate agreements and potential financial problems for grieving families, ATT has warned. The Chancellor announced in October's Budget that, from April 2027, any unused pension funds or death benefits will be included within the value of an individual's estate on death and be subjected to inheritance tax.

The ATT has warned the additional administration work of these new requirements will result in increased costs, time and stress, and beneficiaries could run into financial trouble if probate is delayed. The association is calling for a separate IHT regime for pensions.

Jon Stride, Vice Chair of the ATT Technical Steering Group, said: 'The need to resolve the IHT position first, even if no IHT is ultimately due, is likely to delay when Pension Scheme Administrators can pay income or lump sums out to survivors. This could cause cashflow issues for some surviving spouses or partners.

'Given the administrative challenges, we think that there would be merit in exploring a separate IHT regime for pensions which would help to meet the government's policy intention, without creating excessive burdens on personal representatives.'

LITRG
Online sales guidance published

CIOT's Low Incomes Tax Reform Group has published guidance to help people making money through online platforms to fulfil their tax obligations.

Under new legislation, online platforms like eBay, Etsy, Vinted and Deliveroo are required to send information to HMRC about the identities and sales income of some of the people who use the platforms to sell goods and services, copied to the sellers concerned. Information covering the 2024 calendar year was sent in January 2025.

LITRG's guidance – published ahead of the 31 January self-assessment deadline – explains how those who are sent 'seller information statements' can use them to help work out their tax position and complete a tax return if necessary.

Meredith McCammond, Technical Officer at LITRG, explained that while the statements are not a substitute for maintaining proper business records, they can help online sellers to work out how much gross income they made in a tax year and whether the trading allowance might apply.

LITRG's guidance can be found at: tinyurl.com/58pk4uuk

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

'It is vital to ensure that repayment interest provides adequate and fair recompense for the loss of the use of the monies by the business or individual concerned, and an adequate incentive for HMRC to process repayments in a timely fashion.'
Richard Wild, CIOT head of tax technical, Bloomberg Tax, 9 January

'The Low Incomes Tax Reforms Group (LITRG), a charity, said that more people might now have to file tax returns, but using information they find hard to manage.'
The Guardian on reporting rules for online marketplaces, 11 January

'If you are filing yourself online using HMRC's filing system, make sure you have not just completed but also submitted your return. Every year, some people get to the end of their tax return and think they have completed it when they haven't...'
ATT technical officer Helen Thornley in the Guardian on self-assessment tax return tips, 11 January

'A joint report by the Institute of Chartered Accountants in England and Wales (ICAEW) and the CIOT in December 2024 laid bare its inadequacies. It found that HMRC chatbots only appear to connect 49% of the time and the resolution rate is only 21% even once a connection is established.'
Daily Mail article on HMRC customer service, 16 January

'Incidentally, if you receive a letter from HMRC accompanied by a Certificates of Tax Position form, please take extra care. Guidance from the CIOT is that you should not complete these certificates without first taking professional advice.'
Daily Telegraph article on HMRC 'nudge letters', 21 January

'The CIOT has suggested that the tax saving [between Scottish tax rates and the rest of the UK] is equivalent to about 54p per week for those on salaries of less than £30,000.'
The Times article on Scottish tax divergence, 26 January

'The ATT is just one of many bodies who have highlighted concerns about the administrative complexities the new measures will bring, as well as the potential consequences for some unmarried couples.'
Daily Telegraph article on inheritance tax changes to pensions, 4 February

Spotlight

Spotlight on HMRC's Trusts and Estates Agents' Advisory Group

The HMRC Trusts and Estates Agents' Advisory Group (TEAAG) enables representatives of the professional bodies to engage with relevant HMRC officers on operational matters relating to trusts and estates.

Both CIOT and ATT take part in this liaison group where representatives of the professional bodies engage quarterly with officers from HMRC's Trusts and Estates and Inheritance Tax groups over procedural and operational matters that are of direct concern to our practising members. (Policy issues are the preserve of the Capital Taxes Liaison Group.)

There is a strong sense of mutual respect and collaboration between all members, which contributes to the effective working of the group. HMRC provide reports on how they are meeting service standards (which these departments usually do) for matters such as processing trust and estate returns, IHT400 forms, dealing with correspondence and answering telephone helplines. Incidentally, the shortest waiting times for both the Trust and Estates helpline and the IHT helpline are between 1pm and 2.30pm.

In addition to those main groups, HMRC's Bereavement group, which deals with a deceased's income tax affairs for the period to the date of death and non-complex estates in the course of administration, report on how they are managing their workload.

The Probate Service from HM Courts and Tribunal Service also provide an update on probate processing times, and give insights into how they interact with HMRC when inheritance tax has been paid and the probate grant may proceed.

The TEAAG enables the representatives from the professional bodies to raise matters of concern with HMRC over operational issues, and to suggest areas where a change in approach would benefit taxpayers, practitioners and HMRC. The professional bodies are then able to publicise changes in practice which result from such initiatives.

One recent example is the introduction of the dedicated form P1000, which replaces the 64-8 to give authority to an agent to manage the income tax aspects of an estate. The publication of P1000 followed ATT's suggestion that this should be made more widely available to agents – and there is more information about when and how to use it in the ATT guide 'Managing income tax for a deceased estate' (see tinyurl.com/z2fchrjd).

HMRC, in turn, appreciates the different perspectives that practitioners provide.

The Trust Registration Service also falls within the remit of the TEAAG. A sub-group comprising members of the TEAAG and the Capital Taxes Liaison Group has absorbed many hours of detailed work over the years. The statutory instrument to introduce further changes, including a de minimis that was proposed in the 2024 consultation, is eagerly anticipated.

The new suite of IHT100 forms to report inheritance chargeable events relating to settlements was, after a long gestation and the repeated urging of the professional bodies, finally introduced last year. Issues with them are still being identified, and members are encouraged to raise them with us. Indeed, where members encounter an operational matter that appears to have been 'lost in the system' for far longer than is normal or is the result of a process failure or glitch that deserves wider attention, we may be able to raise it with the appropriate officer in HMRC.

John Stockdale
jstockdale@ciot.org.uk

Webinars

ADIT webinars: get the latest knowledge!

The global tax landscape has never posed more pressing, complex questions. Whether it's the fiscal implications of the climate emergency and demographic changes, calls for new forms of taxation on wealth and income streams, or tax competition between countries, tax professionals are required to keep abreast of an ever-widening variety of policy and technical matters.

Recent elections have put a range of tax topics under fresh consideration, from the future of the OECD's two-pillar BEPS solution to the likely impact of tariffs and protectionist tax policies on the global economy. Meanwhile, the rapid pace of emerging technologies such as generative AI and cryptoassets continues to command the attention of tax practitioners.

This year will see our international tax webinar programme continue to grow, meeting the diverse needs of ADIT, CIOT and ATT members, students and international tax affiliates for up-to-the-minute information and expert insights on important tax subjects around the world. Led by thought leaders from across tax practice, industry and government and covering wide-ranging technical subjects of global interest, our ADIT International Tax Webinars are a convenient way to keep on top of the latest global tax developments.

Our ever-growing selection of ADIT Network Webinars, organised with the help of our eight ADIT Champions and featuring insights from members across national and regional ADIT communities, enables international tax professionals to connect and discuss the tax topics that are most specific to them.

Last year's webinar programme featured considerable discussion of Pillar Two implementation, including its impacts in a number of emerging economies, as well as discussion of its future governance. Other highlights included in-depth, dedicated sessions on specialist topics, such as the transfer pricing treatment of intellectual property and intangibles; the practical considerations of country-by-country reporting; and the role of carbon taxation in sustainable capacity building for energy-producing states.

This year will see sessions on a number of personal, corporate and indirect tax issues, from the taxation of cryptocurrency transactions to VAT for cross-border services in Africa, to the UN's role in international tax governance.

We invite you to contribute to the success of our webinars, either by signing up for a session or by volunteering to present on an international tax topic that's of interest to you. Our webinar programme is audience-led, with many of the most popular topics and speakers coming from members, students and affiliates.

For information about upcoming ADIT webinars, access to previous recordings, or to suggest a topic for a future webinar, visit www.tax.org.uk/adit/events.

Branch Network

Events

The Branch Network: why you should attend!

We explain how we are delivering value to our students, members and the wider public through the Branch Network.

Branch facts and stats!

- In the last five years, 7,751 branch event attendees (online and in person) were under 30 years of age.
- Those aged 30 to 39 are the most likely to attend an in-person branch event. They attended 1,900 times in the last five years, compared to 1,600 in the 40 to 49 age range.
- More members aged over 40 attend virtual events than members aged under 40!

We hope you have seen the new look Branch Network email this year (and if not, see below for how to register)! Here are the top five reasons why you should attend a branch event.

1. **Connect!** Make connections in tax – meet people, find out about their work, tell them a bit about your career so far, and speak to another human person IRL! ('in real life', not a new tax acronym you've never heard of...)
2. **Comply!** Keep up to date with your tax knowledge. The Branch Network offer 50% of their content to members and students for free, only ever charging to cover costs on a break-even basis. You will rarely find comparable content of the quality we offer at anywhere near an affordable price! We know that training budgets are being squeezed – that's why we want you to come along to your branch and let us know what technical topics are of interest to you!
3. **Career!** Not sure what next for you in tax? Get along to a professional skills event hosted by your branch at a local firm. Throughout 2025, we are running the course 'Communicating with impact: making lasting connections with colleagues and clients'. This sort of professional skill is essential as you consider where and how to get to your next role.
4. **Community!** You are not alone! Tax – particularly if you are working 'in-house', as a sole practitioner or in a small practice – can feel lonely sometimes. We are holding eight events aimed at small and sole practice in 2025, with a mixture of online and in-person. And I hope our in-house and Commerce and Industry members were able to attend our first webinar in the new Commerce and Industry Branch programme with Glyn Fullelove last month.
5. **Contact!** Please do write to us at branches@tax.org.uk to find out if we are going to be holding an event near you in 2025. If you can't see activity in your area, do get in touch. We believe the Branch Network is a key benefit and we want to you to feel that it is there for you!

Speaking opportunities for the Branch Network

Do you have a burning desire to tell the tax world about your specialist subject? Please get in touch with us to learn more about our 'new speaker initiative'. There are opportunities both in-person and online. We can put you in touch with an established circuit speaker for advice, who will coach you through a presentation and a technical rehearsal, and give you feedback on the key skills you will need to build speaking as part of your portfolio career in tax! Email us at branches@tax.org.uk and use SPEAKER in the subject line.

If you are not receiving our twice weekly emails, contact us at branches@tax.org.uk. You may need to update your profile if you have you moved jobs or home. We ask that you select no more than three branches, and do check your profile in the portal to make sure it is correct.

Membership

WCoTA: what it means to me!

Two members of the Worshipful Company of Tax Advisers share their experiences of being a member of the WCoTA.

Tom Wallace

Recently, someone asked me: 'What sort of secret society is the WCoTA?' I replied that if it is a secret society, we aren't doing a very good job of keeping it that way! But it did get me thinking about people's awareness and understanding of the company.

Livery companies are not new, with the earliest charter being granted to the Worshipful Company of Weavers in the 12th century. Nowadays, you no longer need to be a member of a livery to trade in the City of London, but their roots are still deeply based in education, charity and fellowship – and it was all these that drew me to the Company.

Education and social mobility have always been at the heart of the livery movement, and both are close to my heart. With longstanding links to educational institutes, the military and the tax profession itself – including its involvement with both the Tax Advisers' Benevolent Fund and the Tax Advisers' Charitable Trust – becoming a member of WCoTA has allowed me to be involved in supporting and promoting those aims.

But there is also the fellowship. Through its programme of formal and informal events throughout the year, you can meet and learn from a broad spectrum of those involved in tax. By becoming fully involved with the Company, I have met many people in the profession – who, given the diverse range of roles in tax – I simply would not have met in my day-to-day job.

I would wholeheartedly encourage you to join WCoTA, and look forward to meeting you at future events!

Agata Kozolup

Whenever I mention being a member of WCoTA (and, invariably, I'm hugely excited), everyone asks, 'But what does it give you?' The answer is multifaceted. Being a member of the Company, maintaining the traditions, celebrating the history and shaping the future of the WCoTA constitutes an invaluable honour and a great privilege. The Company's culture of belonging and true fellowship gives me a great sense of purpose and fulfilment – paradoxically, not easy to find in the 21st century, where most of us seek tangible benefits, immediate (and high!) returns on investments, and instant gratification. If you are looking for fellowship, reinforced by wonderful traditions, would like to focus less on chasing the inherently ephemeral and transient 'success', and truly embrace the present, join us at our next event!

WCoTA events are nothing like typical networking events. There is no initial awkwardness, discomfort and loneliness. You will never experience anything but kindness, support, encouragement and acceptance here! You will join a very diverse group of like-minded individuals, naturally bonded by their profession and embracing the same values, brought together by a common purpose and goodwill – the joy of giving, gratitude, and the belief that benevolence, philanthropy, charity, volunteering and giving back to the society constitute a privilege. A commitment to serve the community is an integral part of their identities.

You will always receive a very warm welcome, meet some of the Freemen and Liveryman and, hopefully, do so in an atmosphere of conviviality and amiability, accompanied by laughter, camaraderie and friendly chatter.

For membership enquiries please refer to: www.taxadvisers.org.uk

Resources

Making Tax Digital readiness: ATT resources

We share details of the many ways you can join us to learn more about Making Tax Digital for Income Tax!

Making Tax Digital for Income Tax (MTD IT) is due to take effect from April 2026. It will represent a fundamental shakeup of how affected taxpayers and agents interact with HMRC, and each other.

To assist members in getting ready for this change, the ATT has produced a number of resources, all of which can be accessed from our MTD IT hub (see tinyurl.com/ew5sme7r).

These include a concise FAQs document to help taxpayers and agents understand what MTD IT will mean for them (see tinyurl.com/2smb396t). This covers a range of issues, including who will be included in MTD and when, what exemptions are available, and how digital record keeping and reporting will work in practice. This is very much a living document, which we will continue to update as we receive more information.

A key focus for many ATT members will be how to get their clients, and their practice, ready for April 2026. To help with this, we have published a 'Get ready guide' for agents setting out key information and practical tips (see tinyurl.com/28me52rr). Our Director of Public Policy, Emma Rawson, also wrote an article for Tax Adviser in October 2024 'MTD for income tax: How to get your practice ready'.

One of the key readiness steps that members might want to consider is joining HMRC's MTD IT testing programme, which is due to expand in 2025/26. Emma recorded a *Tax Adviser* podcast with Rebecca Benneyworth last year, where Rebecca shared her experiences of testing so far. We recorded a follow-up interview last month to check in on how things have been going in the interim. She has a lot of useful tips and advice – and it's well worth a listen if you are considering signing up! You can find *Tax Adviser* podcasts wherever you listen normally to your podcasts, or at www.taxadvisermagazine.com/podcasts.

Demand for technical training sessions on MTD IT continues to grow, and we have a number of events lined up. Emma and David Wright (ATT Technical Officer) are presenting a webinar for the North East England Branch on 8 April (see tinyurl.com/y8mt2tku). MTD will also be a key topic at this year's ATT Annual Conferences, where we will be joined by a HMRC representative for a deep dive into the requirements and practicalities (see tinyurl.com/yc5vauan). As in previous years, there will be a choice of in-person or online sessions for the conferences, and we hope to see many of you there.

In the coming year, we will be looking to develop and expand our support to members to help them navigate this change. If you have any suggestions as to what would be most helpful, please send these to atttechnical@att.org.uk.

Appointments

New ATT Council members

ATT has appointed two new members of Council.

ATT Council members are responsible for the control of the management and administration of ATT. The Council's role is to provide strategic direction, performance management, compliance, management of assets and governance. The ATT Council is delighted to have recently appointed two new Council members.

Tom Wallace

Tom joined Council in 2024. He became a member of the Association in 2022 and is also a member of the Society of Trust and Estate Practitioners after starting his career in HMRC. Tom serves on the Association's Technical Steering Group and the CIOT/ATT Online Branch Committee. He is now in private practice, specialising in HMRC investigations and private client tax planning, and is a regular commentator on tax matters in the industry press.

Connor Whelan

Connor joined Council in 2024. Connor is a Tax Manager at Porsche Cars GB, with experience across all taxes following varied tax roles with the Mercedes-Benz Group, Costa Coffee and Deloitte. Connor serves on the Exam Steering Group and the Future of Tax Professionals Committee. He is a member of the ATT, AAT and a Chartered Tax Adviser (CTA).

NOTICE: TAX ADVISERS' BENEVOLENT FUND

Please note that the email address listed in the Tax Advisers' Benevolent Fund advertisement which appeared in the February issue of Tax Adviser should be: TABF@taxadvisers.org.uk

They would be delighted to hear from you using the correct address!

A MEMBER'S VIEW

Emma Woolhouse

Founder of EJW Accountants Limited

This month's ATT member spotlight is on Emma Woolhouse, Founder of EJW Accountants Limited.

How did you find out about a career in tax?

I have been a Chartered Management Accountant for 20 years, and so tax was a natural expansion of that skillset. Tax plays a key role in business decision making and so by adding tax to my accountancy qualification I have been able to offer my clients a more comprehensive service.

Why is the ATT qualification important?

Earning the ATT qualification has enhanced my credibility as a tax professional and enables me to stand out from other accountants who don't have a specific tax qualification. It has strengthened my technical knowledge, allowing me to provide more valuable advice to my clients.

Why did you pursue a career in tax?

I specialise in small businesses and so the combination of accounting and tax enables me to support clients in one space. To provide the best possible advice to clients, you really need to have an in-depth knowledge of both accounting and tax.

Who has influenced you in your career so far?

My daughters have been a major influence on me. They only see opportunities, not limitations. This has given me the drive to step outside my comfort zone, challenge the norms and build a business that aligns to my values.

Before forming EJW Accountants, I worked in a variety of businesses but often struggled to find a role that was both professionally fulfilling and flexible enough to support my family life. Creating my own practice has allowed me to achieve both.

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

Just get started! It is such an interesting qualification. Once you start, you'll soon see the value it brings.

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

The expansion of AI will continue to transform the tax industry, making compliance more accessible for clients to complete themselves. Advisors will need to adapt and make use of AI within their practices to ensure they remain efficient and competitive, whilst expanding the human elements of their services. There will always be a role for a strong commercial mindset that AI cannot replicate.

> The ATT qualification has enhanced my credibility as a tax professional.

How would you describe yourself in three words?

Pragmatic, energetic and reliable.

What advice would you give to your future self?

Trust your instinct. Always.

Tell me something that others may not know about you.

I once spent an entire Christmas break learning how to solve a Rubik's cube in under two minutes, just so I could finally beat my dad. After hours of practice (and a little festive rivalry), I managed to do it! Unfortunately, I've completely forgotten how to solve it now... so if he challenges me again, I'm in trouble.

Contact

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


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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. You will also be a key point of contact for HMRC. Hybrid and flexible working. **Call Georgiana Ref: 3501**

Corporate Tax AM or Manager
Leeds
£47,000 to £60,000 + benefits

Our client is a Big 4 accountancy firm. They seek corporate tax staff to deal with a mix of client compliance delivery and advisory work. It is likely that you will be ACA, ICAS or CTA qualified with proven UK corporate tax experience. You will get the opportunity to work on a wide range of clients from dynamic OMB's to large international groups. Would consider someone who has mainly worked in industry or candidates form smaller firms looking to join a larger practice. The key to these roles is the ability to build long-term client relationships. **Call Georgiana Ref: 3531**

Tax Director or Partner
Leeds or London
£excellent + bonus and benefits

Our client is an independent firm with 6 offices throughout the UK. They seek a key tax hire at Director or Partner level, ideally based in either their Leeds or London offices. In this role you will help with the next stage of development of the tax practice, joining a small team of tax partners and focusing on advisory work for HNW individuals, entrepreneurs and their businesses. This role would suit either an existing partner or director or someone looking for a step up. Applications welcomed from those with a personal or mixed tax background. **Call Georgiana Ref: 3524**

Tax Senior or Manager
Wilmslow, Cheshire
£35,000 to £45,000 + benefits

Our client is an independent firm based in Wilmslow. They are looking for an experienced tax senior or manager. In this role you will manage the day-to-day tax compliance for the practice. The role is biased towards personal tax but there is the opportunity to do some corporate tax. Clients tend to be local owners of SME's and often have property/rental income. You will report to the directors and will assist them with tax planning and will attend client meetings. You will also review the work of more junior staff. Perfect for ATT qualified. **Call Georgiana Ref 4100**

International Tax and Transactions
Leeds
£60,000 to £85,000 + benefits

National Tax Team of a large accountancy firm is looking for a couple of key hires. They seek qualified corporate tax professionals with experience of large groups with international footprints. In this role you will focus on advisory work and will deal with international tax advice and transaction work ranging from due diligence to structuring. The Leeds team is small but growing and dealing with great quality work. Hybrid and flexible working available. Would consider a hire from industry. **Call Georgiana Ref: 3513**

www.georgianaheadrecruitment.com

Advisory Tax Role – Private Client and OMB Focus – Manchester
£55,000 to £90,000

Our client is a longstanding, large independent firm of accountants. This business has doubled in size in recent years and as a result is looking for a key hire, an experienced tax professional who can deal with wide-ranging technical work for HNW individuals, families and entrepreneurs and their businesses. This team prides itself on being a good place to work, staff are well rewarded and overtime is paid at all levels. This firm can offer hybrid working and has modern offices in central Manchester and flexible/parttime working arrangements available. **Call Georgiana Ref: 3534**

Private Client and Trust Manager
Camberley, Surrey
£excellent

Opportunity to join a well-established advisory firm based in Camberley. Working in this Tax team, you will be responsible for all aspects of taxation for private clients and trusts. From compliance management to wide ranging advisory work, you will provide clients with a range of solutions such as Capital Gains Tax returns, Inheritance Tax returns and advice, Trust Tax returns and tax planning advice. The role is office based and working with a friendly team. Parking provided – a great local role. STEP and CTA an advantage, **Call Georgiana Ref: 3533**

Mixed Tax
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. Good mix of compliance, tax advisory work including remuneration planning, capital allowances for FHLs, CGT including MBOs, company reorganisations and gifts of shares, sales of businesses for sole traders and partnerships, IHT. Great local role. **Call Georgiana Ref: 3521**

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

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**

Tax Specialist or Manager
Berkhamsted
£excellent

Our client is an established tax consultancy which is the sister company to an investment management business. They seek a key hire, a Tax Specialist who is ideally ATT qualified. You will join a small team to manage the day-to-day compliance for 200 HNW individuals – many of whom have residence and domicile issues. You will also deal with trust work including accounts, administration and trust tax work, and get involved in a wide range of advisory work including residence and domicile advice, IHT and CGT advice. Great prospects. **Call Georgiana Ref:3464**

Corporate Tax Compliance Manager
Manchester
£excellent

Our client is a long standing, large independent firm of accountants. This business has doubled in size in recent years and as a result is looking for a key hire; an experienced corporate tax professional who can help develop the firm's corporate tax compliance and reporting offering. Clients are surprisingly large and complex. This firm can offer part time, hybrid working and flexible hours and has modern offices in central Manchester. This team prides itself on being a good place to work, staff are well rewarded and overtime is paid at all levels. **Call Georgiana Ref 3535**

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Private Client Tax Director
London
£110,000 – £140,000

A strategic appointment by one of London's premier, award-winning Private Client Tax teams. A great opportunity to position oneself for partnership with a leading player in the Private Client field. The team advises UK and international UHNWIs on all areas of their personal taxation including multi-jurisdictional wealth planning, succession-planning, transaction-related advice and extraction of wealth from businesses. **Ref 5192**

Personal Tax Manager & Senior Manager
London
£60,000 – £90,000

We are currently working with a high-profile national accountancy firm, who are keen to recruit both a CTA Manager and Senior Manager into their growing, award-winning Private Client Tax team in London. You'll perform a client-facing role, advising on income and capital taxes issues affecting UHNW entrepreneurs, families and business owners. Many with multi-jurisdictional aspects to their affairs. **Ref 5186**

Personal Tax Advisory Manager
Southampton
£55,000 – £65,000

A great opportunity to perform an advisory-focused role with one of the region's leading Private Client Tax teams. Work on ad hoc planning projects with respected Partners. Liaise directly with HNW business owners, entrepreneurs and their families. The CTA qualification and experience of advising on income and capital taxes issues is important. Scope to progress to SM and Director grades in due course. **Ref 5184**

Personal Tax Assistant Manager & Manager
Guildford
£50,000 – £65,000 DOE

You don't have to be based in London to handle the highest quality Private Client Tax work. Our client advises HNW domestic and international entrepreneurs, families and business owners on all areas of their income and capital taxes planning. They offer high end work, genuine work/life balance and a supportive environment in which to progress one's career. **Ref 5181**

Capital Taxes Senior Manager
West End
To £90,000

Independent, friendly and supportive West End firm seeks a CTA Senior Manager to provide CGT, IHT and trusts planning advice to UK and international HNWIs. Their high-quality Private Client team has attracted leading personal tax advisers seeking an environment where they can really make a difference. Genuine scope to progress towards Director grade in a culture that embraces work/life balance. **Ref 5177**

Personal Tax Senior Manager & Manager
Tunbridge Wells
£55,000 – £85,000

Undertake high quality domestic and international private client tax work for HNW entrepreneurs, PE clients and wealthy families, without the trek into London. Our client has an impressive Private Client offering that continues to attract high quality work. They are growing and keen to appoint personal tax CTAs at Manager and Senior Manager grades. Genuine scope exists to progress swiftly. **Ref 5140**

Trusts & Estates Manager
Cambridge
£55,000 – £65,000

Do you have experience of preparing and reviewing trust accounts and trust returns? Do you enjoy a client-facing role where you can build long term relationships? Would you like to get involved with trust and estate planning projects? Our client has a high-profile Private Client team that is growing and keen to appoint an additional Trusts & Estates Manager. **Ref 693**

Tax Investigations Assistant Manager
London
£50,000 – £60,000

A fantastic opportunity to join a high-quality Tax Dispute Resolution team. Working closely with leading tax investigations Partners, you will support a range of clients with their representations to HMRC. You will have some previous tax investigations experience, a strong technical grasp of UK personal taxation and be ATT, CTA or HMRC qualified. Previous experience of COP8/9 is desirable. **Ref 5057**

Our clients support hybrid working and offer scope for homeworking 2–3 days a week, if one wishes.

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T: 07891 692514

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