1. General

1.1 Automation of tax notices

The Government has announced that it will legislate in the next Finance Bill to put the law in relation to automation of tax notices in line with HMRC’s previous understanding. The legislation will confirm that where computers or other electronic means are used to issue specific notices, these will be valid.

Recent cases have seen judges consider whether penalty determinations made by a computer, rather than an HMRC officer, are valid or not. HMRC has announced that it will legislate in the next Finance Bill to confirm HMRC’s longstanding view that ‘HMRC’s use of large-scale automated processes to give certain statutory notices, and to carry out certain functions is, and always has been, fully authorised by tax administration law’.

The proposed new legislation will provide that for specific functions, including issuing notices to file a return and penalty determinations, anything capable of being done by an officer may be done instead by HMRC through the use of a computer or other electronic means, whether automatically or not.

The legislation will also have retrospective effect. Any taxpayers, however, who have received a settled judgement from a court or tribunal regarding the use of automation by HMRC before the date of this
announcement (31 October 2019) will not be subject to the retrospective application of this legislation in respect of the issues covered by that judgment.


1.2 Permanent Chief Executive for HMRC

Jim Harra has been appointed Chief Executive and First Permanent Secretary of HMRC on a permanent basis.

Following Sir Jonathan’s Thompson’s departure in September, Jim Harra was appointed Interim Chief Executive of HMRC as a temporary replacement. This appointment has now been made permanent.


1.3 (No) Budget Blues

There have been press releases pointing out issues arising from the fact that the Budget, scheduled for 6 November has been cancelled. The CIOT raised concerns about the Scottish Budget and the Association of Taxation Technicians (ATT) pointed out the knock-on effects on the proposed IR35 changes from April 2020.

The CIOT points out that postponing the Budget will damage the Scottish Parliament’s ability to scrutinise tax and spending plans ahead of the new tax year. The Scottish Budget had been pencilled in for 12 December, now the day of the General Election.

The ATT points out that the Budget and the ensuing Finance Bill are required for establishing the new contractor off-payroll tax rules that are scheduled to commence in April 2020. Responsibility for deciding whether or not a contractor is in fact an employee for employment taxes purposes is planned to move from the individual’s personal service company to the client business. Until these events have happened, businesses will not be fully aware of how the change will operate.


2. Private client

2.1 Offshore collective investment funds – nudge letters

The CIOT has reported that HMRC is planning a bulk mailing of ‘nudge’ letters in early November 2019 to a subset of taxpayers whose tax affairs are dealt with by HMRC’s Wealthy & Mid-Sized Business unit. The letters focus on reporting income and gains from offshore funds.

The CIOT note that the letters ask recipients to check that they have correctly declared money received from offshore (overseas) collective investment funds, and include a factsheet that gives more details.

The sample letter suggests that HMRC has received information that the taxpayer ‘may have’ invested in offshore investment funds. The letter does not however imply that there has been any incorrect reporting but notes that the rules are complex and the position should be checked.

2.2 OTS tax reporting and payment arrangement review

The OTS has published its report on tax reporting and payment arrangements. It explores ways to simplify tax for self-employed people and residential landlords so that they can meet their tax obligations in a practical and streamlined way.

The three recommendations focus on potentially fruitful areas for further, more detailed, work including next steps and timescales as follows:

- the potential for HMRC to offer a fully integrated individual tax account so that taxpayers could see information about all their different types of income in one place. It would offer a running calculation of tax due and include the facility to make payments to HMRC towards the final tax liability;
- the sub-sectors of the economy where third parties play a significant role in relation to a group of taxpayers, and who would have sufficient information to enable effective third-party reporting. Two sub-sectors identified were the taxi/private hire market and the holiday lettings market.
- which types of self-employment business or rental business would most benefit from being able to report data periodically and pay tax through an integrated individual tax account.

The paper builds on earlier work by the OTS regarding the impact of the platform economy and use of technology on how people manage their tax affairs.


3. Business tax

3.1 HMRC publishes new guidance on Structures and Buildings Allowances

HMRC has updated its Capital Allowance Manual with a new chapter on the Structures and Building Allowance (SBA).

New guidance on SBAs has been added to the Capital Allowance Manual. SBA was introduced by Finance Act 2019 for expenditure on or after 29 October 2018. It provides for relief at 2% per year for 50 years for some costs of construction and renovation of non-residential buildings or structures.

www.gov.uk/hmrc-internal-manuals/capital-allowances-manual

3.2 Exemptions for hybrid regulatory capital and compliance with the EU ATAD

New regulations come into force on 29 November 2019 to exempt qualifying hybrid regulatory capital instruments issued by banks and insurers to their overseas associates from counteraction under the hybrids legislation. These measures ensure that interest paid on hybrid instruments issued by banks to meet regulatory requirements are deductible for tax purposes.

HMRC has issued two guidance notes to explain new regulations which come into force on 29 November 2019. These regulations (SI 2019/1251) ensure that interest payments made on certain hybrid instruments issued by banks and insurers as regulatory capital under new Bank of England requirements continue to receive a tax deduction. These measures have effect for interest payments made on or after 1 January 2019 and will be replaced from 1 January 2020 by new regulations (SI 2019/1345) to comply with more stringent rules under the EU anti-tax avoidance directive (ATAD).


4. And finally

4.1 Sledgehammer policies: ideal for nutcracking

We now know that there is to be a General Election. Before the publications of party manifestos, thoughts are scurrying back to the recent party conferences for some guidance on likely tax policies.

Party conference reports, however, often include hair-raising suggestions that will never come in, and this year one, in particular, caught our eye. A panel event speaker pointed out that most taxpayers do not have much to do with HMRC, and suggested that abolishing the PAYE system would increase public awareness of the tax system. It is very hard to disagree with him, even if it means millions more having to file tax returns.

We are delighted to hear that he is so enthusiastic about education, but it is just possible that he has overestimated the numbers who really want to understand tax.

www.tax.org.uk/media-centre/blog/media-and-politics/hints-tax-cuts-no-big-announcements-report-conservative