

Tax update

A round-up of recent issues

18 February 2020

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1. General

1.1 Chancellor of the Exchequer resigns

Rt Hon. Sajid Javid MP has resigned less than a month before the 2020 Budget is scheduled to be announced. He has been succeeded by Rt Hon. Rishi Sunak MP.

Mr Sunak previously held the position of Chief Secretary to the Treasury. Rt Hon. Steve Barclay MP, former Brexit Secretary, has taken over that role. The date of the Budget will not be moved from March 11.

www.ft.com/content/a15c78ec-4e3f-11ea-95a0-43d18ec715f5

1.2 CIOT submits representations ahead of the March 2020 Budget

In advance of the Budget on 11 March 2020, the CIOT has submitted two representations to HMRC. The first calls on the Government to define 'deliberate' behaviour for penalties in relation to tax matters. The other suggests that a review of MTD for VAT should be carried out alongside further consultation before any extension to MTD.

Legislation currently defines careless behaviour but not deliberate. The CIOT wants a new definition to put beyond doubt the meaning of 'deliberate' behaviour that covers discovery or assessment time limits and penalties.

The CIOT suggests that the definition of deliberate should require that taxpayers knew they were either providing an inaccurate return or document to HMRC that leads to an inaccurate self-assessment, or purposely chose not to provide a return or document at all.

The second representation comes jointly from the CIOT and ATT. It is in response to the results of the bodies' recent survey, which indicate, for the majority of respondents, that MTD for VAT is not yet reducing errors or delivering productivity benefits to businesses. It is also costing businesses more than HMRC estimated. The representation is that there should be a further review and consultation for MTD for VAT before MTD is further expanded.

www.tax.org.uk/policy-technical/submissions/budget-representation-deliberate-behaviour

www.tax.org.uk/policy-technical/submissions/budget-representation-making-tax-digital

1.3 Agent Update 76

HMRC has published a further edition of Agent Update. It provides an overview of the recent issues of which tax agents should be aware.

The Update includes:

- information on the future relationship between the UK and the EU;
- a reminder that updated and additional guidance was published in January regarding the loan charge;
- a reminder of the change from 6 April 2020 to CGT payment and reporting deadlines for property disposals and a call for agents to trial the service;
- an update on HMRC's processing of R&D claims;
- a reminder of changes to the short-term business visitor arrangements;
- an update on the changes to the Employment Allowance;
- an update on corporation tax unique tax reference (UTR) numbers for non-resident company landlords;
- confirmation of a review of off-payroll working rules, due to apply from April 2020;
- a call for volunteers to help improve the Corporate Interest Restriction Return.

www.gov.uk/government/publications/agent-update-issue-76

2. Private client

2.1 MTD for IT

HMRC has commenced the registration process for individuals wanting to sign up for MTD for IT.

Notwithstanding the representations by the CIOT and ATT (see section 1.2 above), HMRC has commenced the registration process for MTD for IT. This includes individuals signing up personally and agents registering their clients. HMRC has also published a list of software that is compatible with MTD for IT.

MTD for IT is only available to UK residents who are already registered for Self Assessment and whose returns and payments are all up to date, submitted and paid. Those registering can only have sole trade

income from one business or UK rental income. Individuals with income from any other sources or who need to report any other taxable payments or payments that generate tax relief cannot sign up.

www.gov.uk/guidance/sign-up-your-business-for-making-tax-digital-for-income-tax

3. PAYE and employment

3.1 Changes to the Employment Allowance

The eligibility rules for claiming the Employment Allowance (EA) will change from 6 April 2020. HMRC has released guidance in relation to this.

The guidance seeks to help tax agents and advisers ensure their clients are prepared for the changes and to help professional bodies update their members appropriately.

EA will operate as *de minimis* state aid. It will only be available where the Class 1 (secondary) NIC liability in the previous tax year is below £100,000.

www.gov.uk/guidance/changes-to-employment-allowance

4. Business tax

4.1 New OECD guidance on transfer pricing for financial transactions

The OECD has published a report on the application of the arm's-length principle to financial transactions between related entities. The report updates the current version of the OECD Transfer Pricing Guidelines (TPG).

The report follows a discussion draft that was published in July 2018. The majority of the report is guidance that will be added to the TPG as Chapter X. There are also some additions to Chapter I. This is the first time the OECD has provided guidance on transfer pricing aspects of financial transactions. The report is consistent with the underlying principles of the TPG. It analyses how these should be applied to activities such as treasury functions, intra-group loans, cash pooling and hedging. Guidance is also included on financial guarantees and captive insurance.

www.oecd.org/tax/beps/transfer-pricing-guidance-on-financial-transactions-inclusive-framework-on-beps-actions-4-8-10.pdf

4.2 HMRC clamps down on failures to prevent tax evasion

HMRC has released information on its recent increase in investigations under the Corporate Criminal Offence (CCO) regime.

The CCO laws, which were introduced in 2017, require companies to implement 'reasonable procedures' to prevent the criminal facilitation of tax evasion. They apply to both UK tax evasion and international tax evasion. HMRC has published information on its current CCO investigations under a Freedom of Information request: it has 9 live investigations and 21 further opportunities under review. These investigations involve companies of all sizes from small businesses to some of the largest corporates and across 10 different business sectors, including financial services, construction and software development. With potentially unlimited fines for those found guilty of the offences, businesses must take their responsibilities seriously and put in place reasonable procedures to stop the facilitation of tax evasion. The Freedom of Information release states that HMRC is aiming to change industry practice and attitudes towards risk, rather than meeting a quota of prosecutions.

www.gov.uk/government/publications/number-of-live-corporate-criminal-offences-investigations

5. Tax publications and webinars

5.1 Tax publications

The following Tax publications have been published

- [HMRC initiatives set to impact the real estate industry](#)

5.2 Webinars

The following client webinars are coming up over the next few months.

- 17 March 2020: S&W Sessions: The Budget
<https://smithandwilliamson.com/en/events/>

6. And finally

6.1 Love and Taxes

Imagine a world where not only do you not have to pay tax, you are not even expected to talk to the Revenue. Bliss. Where do we sign? Well, it's not quite as easy as that; the Jersey Government has been debating the Island's long-standing practice that the husband speaks for the wife when it comes to tax, unless an election is made for the wife to be taxed separately. You therefore have to be a married woman to enjoy this special treat. We had better be careful; the topic struck a chord here and there is no doubt that the privilege does come at a price over equality that can be considered too high.

The answer, though, is easy. Let's keep the privilege, because it is wonderful. Simply make it gender neutral, with a couple's election. We can't have anyone considered a second-class citizen, but if we can all be this second class by election, what's not to like? What a perfect Valentine's present! Forget long-stemmed roses and champagne; a promise to pay your tax for life might win even the most reluctant heart.

www.theguardian.com/uk-news/2020/jan/26/jersey-expected-to-scrap-only-husbands-talk-tax-rule

Glossary				
Organisations		Courts	Taxes etc	
ATT - Association of Tax Technicians	ICAEW - The Institute of Chartered Accountants in England and Wales	CA - Court of Appeal	ATED - Annual Tax on Enveloped Dwellings	NIC - National Insurance Contribution
CIOT - Chartered Institute of Taxation	ICAS - The Institute of Chartered Accountants of Scotland	CJEU - Court of Justice of the European Union	CGT - Capital Gains Tax	PAYE - Pay As You Earn
EU - European Union	OECD - Organisation for Economic Co-operation and Development	FTT - First-tier Tribunal	CT - Corporation Tax	R&D - Research & Development
EC - European Commission	OTS - Office of Tax Simplification	HC - High Court	IHT - Inheritance Tax	SDLT - Stamp Duty Land Tax
HMRC - HM Revenue & Customs	RS - Revenue Scotland	SC - Supreme Court	IT - Income Tax	VAT - Value Added Tax
HMT - HM Treasury		UT - Upper Tribunal		

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