

Tax update

A round-up of recent issues

15 September 2020

1. Private client

1.1 ATT publishes guidance on online CGT reporting

2. Business tax

2.1 HMRC updates guidance on R&D relief and furloughed staff

3. Tax publications and webinars

3.1 Tax publications

4. And finally

4.1 'Disproportionate and draconian'

1. Private client

1.1 ATT publishes guidance on online CGT reporting

The ATT has published a note on the practicalities of using the new HMRC online reporting service for CGT on UK property. It has not been approved by HMRC, but is based on members' experiences using the portal.

The guidance covers the basic rules as well as a step-by-step guide to the authorisation process. It also explains what to do for digitally excluded and digitally challenged clients, how the rules apply to estates, and the use of paper returns.

www.att.org.uk/uk-property-reporting-service

2. Business tax

2.1 HMRC updates guidance on R&D relief and furloughed staff

HMRC's guidance on R&D relief has been updated to explain how HMRC will treat staffing costs for employees furloughed during the COVID pandemic. In general, staffing costs met by the Government will not be eligible for R&D relief.

Employees furloughed under the Coronavirus Job Retention Scheme (CJRS) were required to cease all work in relation to their employment until 1 July 2020. From that date, they may have been flexibly furloughed and so could only have worked on R&D projects part-time. HMRC considers that furloughed employees cannot be regarded as directly or actively engaged in R&D. Staffing costs incurred for periods while

employees were furloughed and not working should not, therefore, be included in R&D claims. This also applies to any top-up payments made by employers while employees were furloughed under the CJRS.

The costs of sick leave and annual leave are generally viewed by HMRC as necessary costs of undertaking R&D work that are potentially eligible for R&D relief. To the extent that sick leave or annual leave is met by the Government through the CJRS, these costs will be treated as having been subsidised and will not qualify for relief within the R&D scheme for small and medium enterprises. Those costs can, however, be eligible for relief under the R&D expenditure credit scheme for large companies. HMRC has confirmed that it will accept a fair and reasonable apportionment when calculating the proportion of subsidised staffing costs in these situations.

www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird83200

3. Tax publications and webinars

3.1 Tax publications

The following Tax publications have been published.

- [Domicile enquiries - an update](#)

4. And finally

4.1 'Disproportionate and draconian'

It is an unshakeable principle of tax that every gap in the law, no matter how small, eventually ends up causing a problem. Last week, in *Re Webster*, we reported on how an unfortunate taxpayer found the one box on a tax return that cannot be amended post-submission; that is, carry back claims for gift aid. Incurring a £200,000 bill on the charitable donation made on the first anniversary of his wife's death must have been bad enough, but the penalties for carelessness when he tried to correct it with HMRC added insult to injury. His attempt to obtain rectification from the HC failed, with the judge commenting that although he did not have the power to correct the return, he would not have done so if he could, as a careless error '*is not one that ought to engage the court's sympathy*'.

Putting aside the unkindness of that comment, surely a system in which this can be the consequence for mistyping one figure (in fact claiming less relief than he meant to) is deeply flawed?

Sympathy may have been lacking at the HC, but surely not with our readers. We wish him a better outcome at the tax tribunals.

www.bailii.org/ew/cases/EWHC/Ch/2020/2275.html

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		

smithandwilliamson.com

Offices: London, Belfast, Birmingham, Bristol, Cheltenham, Dublin (City and Sandyford), Glasgow, Guildford, Jersey, Salisbury and Southampton.

Smith & Williamson LLP: Regulated by the Institute of Chartered Accountants in England and Wales for a range of investment business activities. A member of Nexia International. The word partner is used to refer to a member of Smith & Williamson LLP.

