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SPRING BUDGET: CAPITAL ALLOWANCES CHANGES

As Budgets go, the contents of Jeremy Hunt's first full Budget in March 2023 were in many ways difficult to predict. His Autumn Statement in November 2022 announced the freezing of various tax thresholds, including the Income Tax personal allowance and Inheritance Tax nil rate band until April 2028, and the VAT registration threshold until April 2026.

But in terms of Capital Allowances, the new concept of Full Expensing for limited companies was certainly unexpected.

We already knew that the Annual Investment Allowance (AIA) annual limit would remain at £1 million permanently and AIA is still there for unincorporated businesses (covering 99% of eligible expenditure).

But this new relief will provide companies who otherwise have only been able to rely upon the £1 million AIA limit from April 2023 with the ability to obtain an upfront 100% deduction from their Corporation Tax liability in the year of purchase. Smaller companies may have found the AIA sufficient, but this will be particularly beneficial to larger companies.

For the last two years, the 130% super-deduction has effectively provided 25% Corporation Tax relief for companies investing in new qualifying plant and machinery. This came to an end on 31 March 2023 as originally planned. Full Expensing equates to the same 25% relief on purchases of qualifying plant and machinery. To assist their capital expenditure planning, companies have the confidence that Full Expensing will be part of the tax system for at least the next three years, although the Chancellor would like this to be permanent.

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Full Expensing means that companies which would have paid the new 25% Corporation Tax rate will continue to do so if they do not invest. But those which invest in qualifying plant and machinery will receive a 100% deduction in the year of purchase to reduce the exposure to that 25% rate.

AIA can still be claimed by limited companies, which may be helpful in the case of special rate pool expenditure, as AIA will be preferable to the 50% First Year Allowance for special rate pool additions. But in the case of main pool additions, Full Expensing will achieve a better tax treatment.

Under both schemes, it is important to remember there is clawback when assets are sold and this could increase the tax payable in future if assets used in the business are sold but not replaced.

Exclusions for Full Expensing

The normal Capital Allowances exclusions in Section 46 CAA 2001 will apply in the case of Full Expensing, as they did for the super-deduction. As well as leased assets, Full Expensing will not be available in the case of expenditure on cars and expenditure in the period when a business permanently ceases.

There will be similar anti-avoidance measures to the super-deduction rules to stop allowances under Full Expensing where arrangements are "contrived, abnormal or lacking a genuine commercial purpose".

Using the example of cars, the Capital Allowances available will be based on whether the car is new and unused and the car's C02 emissions. Where a car is new and unused, a car with emissions of 0 g/km (or fully electric) would receive 100% First Year Allowances under existing legislation. Second hand electric cars and non-electric cars with emissions of 50 g/km or less will receive Writing Down Allowances in the main pool at 18% per annum, whereas a car with emissions above 50 g/km would only receive Writing Down Allowances at 6% per annum.

So, unless a car qualifies for 100% First Year Allowance based on its emissions, Full Expensing will not improve the tax relief available compared with the position before the Spring Budget.

Treatment of disposals where full expensing claimed

Full Expensing has followed a similar departure from the normal Capital Allowances position, as was the case for the super-deduction. When a main pool asset subject to Full Expensing is disposed, the full proceeds of the sale of an asset will give rise to a balancing charge. When an asset subject to the 50% First Year Allowance is disposed, the balancing charge will be 50% of the disposal value.

Where an allowance has only being claimed in relation to part of the expenditure, the balancing charge will reduce accordingly.

Other Capital Allowances changes in the Spring Budget

The 100% First Year Allowance for electric vehicle charge-points will continue for a further two years. This means that the allowance will be available until 31 March 2025 for companies and 5 April 2025 for unincorporated businesses.

The government also announced 12 Investment Zones, which will benefit from targeted tax breaks, including Stamp Duty Land Tax relief (where applicable and the position may differ for devolved nations), enhanced capital allowances for plant and machinery, enhanced structures and buildings allowances, and secondary Class 1 National Insurance relief. Further details are still to be announced in due course, but at least one zone is expected to be in each part of the UK.

Spring Tax Update: Part One – Employment Taxes Webinar

Time: 11am until 12 noon
Date: Tuesday 11 April 2023

Join our essential roundup of the latest employment policy and practice tax matters including developments in the Spring Budget, presented by Justine Riccomini and Susan Ball (the current CIOT President). The session will be followed by Q&A for the last ten minutes, giving you the opportunity to ask about the latest tax measures, and raise issues/ concerns etc.

Key themes:

- Employment taxes policy developments
- Employments taxes developments from Spring Budget
- Key areas of difficulty for employers and practitioners

Register here.

Spring Tax Update: Part Two – Taxation of Owner Managed Businesses

Time: 11am until 12 noon
Date: Tuesday 18 April 2023

Join our essential roundup of the latest tax matters including developments in the Spring Budget, a general tax update covering business taxes affecting Owner Managed Businesses and where to find further information.

The session will be followed by Q&A giving you the opportunity to ask about the latest OMB tax measures and raise any problems or concerns including HMRC service levels.

Key themes:

- Business Taxes
- Tax developments from the Spring Budget and Finance Bill

Register here.

SPRING BUDGET: EMPLOYMENT TAXES

The 2023 Spring Budget contained four pillars of growth – one being employment. Most employment tax practitioners will probably be relieved after the utter chaos of the last three years with Brexit- and Covid-related changes, to hear that in this year's Budget, only a small number of employment tax changes were announced. However, there were also some other important changes to employment tax guidance and processes, as well as some newsworthy items that employers and agents need to be aware of which were not included in the Budget but were announced just before and just after the Budget event. The Budget announcements themselves were aimed at addressing the reasons why older, "more experienced" groups have left the labour market and focused on assisting:

- long-term sick and disabled
- welfare recipients
- parents

This article sets out all the recent changes, regardless of where they appeared.

Compulsory online completion of Forms P11D

The February 2023 edition of Employer Bulletin set out that from 6 April 2023, it will be compulsory to file P11Ds (including P11D(b)) online and not on paper. It is vital that all employers except those who are exempt (such as those with religious objections) understand their obligations because the P11Ds for 2022/23 are included in this mandatory exercise, despite the extremely short notice.

Paper amendments to P11Ds are also not allowed and HMRC has stated that it will be launching an online portal to submit amendments through – and hopefully more information on this will be available in the April edition of Employer Bulletin. There are issues with bulk amendments, digitally excluded employers and individuals with no NINO (such as ex-pat employees) which ICAS hopes HMRC will clarify before 6 July.

The Government is also to introduce IT which enables agents to payroll benefits in kind for clients which ICAS understands will coincide with the removal of paper P11Ds from 6 April 2023 (i.e. for P11Ds covering the 2022-23 tax year).

Beneficial loan interest rates change from 6 April 2023

The official rate at which interest is charged on interest-free and low-interest loans is increasing from 2.00% to 2.25%.

Further information on beneficial loans can be found at Booklet IR480, Chapter 17.

Enterprise Management Incentive (EMI) Schemes

On Budget day, a Tax Information & Impact notice (TIIN) was published relating to improvements to the process of granting EMI options. HMRC confirmed that:

"The changes which apply from 6 April 2023 will:

- remove the requirement for the company to set out within the EMI option agreement the details of any restrictions on the shares to be acquired under the option;
- remove the requirement for the company to declare that an employee has signed a working time declaration when they are issued an EMI option. It does not remove the working time requirement itself.

From 6 April 2024, the government will also extend the deadline for notifying an EMI option from 92 days following grant to the 6 July following the end of the tax year. This will be legislated separately and the impacts will be set out at that point."

Coronavirus Job Retention Scheme (CJRS)

The House of Commons Public Accounts Committee (PAC) recently noted in their February 2023 report that due to apparent lack of resources, HMRC have recovered a much lower amount of fraudulently claimed Covid employee furlough payments than expected, stating that "HM Treasury and HM Revenue & Customs moved quickly to put the schemes in place but were then too slow to better target support to those in genuine need, and tackle error and fraud. Levels of unrecovered error and fraud are far too high. HM Revenue & Customs has had little success in recouping the £2.3 billion incorrectly paid to employers claiming furlough for employees who continued to work. It is winding up the Taxpayer Protection Taskforce without recovering the money expected."

Promoters of tax avoidance

The Chancellor doubled the maximum prison term for offenders convicted of promoting tax avoidance

schemes from seven to fourteen years. This sends a clear message that these behaviours will not be tolerated as they represent damage to the public purse. Many schemes have historically been found to be in employment taxes and reward as well as extraction of profit.

Off-Payroll working guidance

In March 2023, HMRC published updated guidance on understanding off-payroll working arrangements which aim to clarify certain aspects and set things out in a clearer and simpler format, following discussions with the Employment Status & Intermediaries Forum.

In other news, the First Tier Tribunal has found in favour of Gary Lineker in his IR35 case and the Upper Tax Tribunal found in favour of HMRC in the Eamonn Holmes case – the fact patterns are of course different in each case, but once again we have two TV presenters with two different outcomes, which can lend itself to confusion in this area. A more detailed article will be coming out shortly on this and will be available in the May 2023 Technical Bulletin.

Increasing occupational health coverage and tax incentives – consultation and pilot schemes to help SMEs purchase them

Following a piece of DWP research published on Budget day, the Government is consulting on the options for increasing occupational health coverage and running pilot schemes that will assist small and medium-sized businesses to fund the purchase of these policies, including what tax incentives might be available.

Strengthening employment rights

The government announced during the Budget that it will support a Private Member Bill providing day one rights to request flexible working. Additional Bills which grant specific groups protections or leave entitlements and include enhanced redundancy protection for pregnancy, family leave, carer's leave, and neonatal care leave will also be supported. Other important Bills encompass ensuring all hospitality tips go to staff and workers having the right to request a contract with more predictable hours. It's good to see these being addressed after a few years of uncertainty following Brexit and no Employment Bill forthcoming despite urgent lobbying.

Call for Evidence on informal flexible working - forthcoming

The government will bring forward a call for evidence to launch in Summer 2023 on informal and ad hoc flexible working to better understand informal agreements on flexible working between employees and employers.

Taxation of new social security benefits by the devolved administrations – new powers

The UK Government issued powers to the devolved administrations on Budget day to enable the tax treatment of new payments or new top-up welfare payments, introduced by the devolved administrations to be confirmed as taxable social security income through secondary legislation.

Tax treatment of carer's support payment in Scotland

The Scottish Government announced the payment of carer's support payment on 7 February 2023 and the UK government has undertaken to clarify the tax treatment of the payments as categorised as taxable social security income.

Seafarers' Wages Act 2023

The Seafarers' Wages Act was introduced by the UK government with a view to stopping another "P&O" style incident happening – readers will recall the 2022 dismissal of over 600 P&O workers which led to the government's "9-point plan". The Bill received royal assent on 23 March 2023 and aims to ensure maritime workers onboard vessels that regularly dock in UK ports are paid at least the UK National Living Wage. Whether this legislation is sufficient remains to be seen – it may be the case that additional agreements with other countries will need to be implemented to square the circle.

Let us know your views

We welcome Members' input to inform our work on consultations or other tax-related matters – email tax@icas.com to share your insights and feedback. ICAS responds to many tax calls for evidence and consultations, as well as producing tax policy papers and reports. We also regularly attend meetings with HMRC at which service levels, delays and other issues are discussed, and we raise problems being encountered by Members.

SPRING BUDGET: PENSION TAX CHANGES

Problems looking for a solution

As the Chancellor acknowledged in his Budget speech, some aspects of the taxation of pensions, have been causing problems, particularly in the NHS. He cited concerns raised by senior clinicians, who told him that unpredictable pension tax charges are making them leave the NHS. However, he also recognised that the issue goes wider than doctors, suggesting that “no one should be pushed out of the workforce for tax reasons”.

The main areas of difficulty addressed in the Budget were:

Lifetime allowance (LTA): This is the limit on total tax relieved pension savings. It had reduced in stages from £1.8m in 2011/12 to £1m in 2016/17. Prior to the Budget it was £1,073,100 and was expected to be frozen at that level until April 2026. Unsurprisingly, some of those affected by the LTA were opting to retire early, or reduce their hours, to avoid punitive tax charges for exceeding it.

Annual allowance (AA): This sets an annual limit for tax-relieved pension contributions. It was £50,000 in 2011/12, but reduced to £40,000 for 2014/15 onwards. Due to the operation of the NHS pension scheme, the government noted that this was giving rise to unexpected tax charges for many doctors. Outside the NHS it could mean a lack of flexibility, for example, those with variable incomes who would like to be able to make larger contributions in some years.

Money purchase annual allowance (MPAA): Individuals who have already accessed their pension pots are subject to a reduced allowance for pension contributions. This was £10,000 in 2016/17 but reduced to £4,000 for 2017/18 and subsequent years.

Through the changes announced, the Chancellor hopes to remove a deterrent to experienced and skilled individuals remaining in the workforce and to encourage some of those who may have retired early, to return to work.

Budget changes

Lifetime allowance

The government announced that from 6 April 2023 the LTA charge (applied where the LTA was exceeded) will be removed. The LTA will be fully abolished from the 2024/25 tax year (this will be included in a future Finance Bill).

HMRC has published Pensions scheme newsletter 148 setting out some complexities arising from this two stage approach, and how pension scheme administrators should deal with the changes. This includes information on pension commencement lump sums and other lump sums.

Annual allowance

The government announced that from 6 April 2023, the AA for tax relief on pension savings in a registered pension scheme will increase from £40,000 to £60,000.

The adjusted income limit has not been removed, but will increase from £240,000 to £260,000. This means that if a pension scheme member’s adjusted income is over £260,000, their AA in the tax year may be reduced. For every £2 their adjusted income exceeds £260,000, their AA for the current tax year will reduce by £1. The minimum reduced AA from 2023/24 onwards will be £10,000 (increased from £4,000).

Money purchase annual allowance

The MPAA will revert to £10,000 from April 2023 (increased from its current level of £4,000).

ICAS reaction

Pensions require long term planning, so the numerous reductions to tax allowances in recent years undermined confidence, made sensible planning difficult and had adverse consequences in discouraging some individuals (including doctors) from remaining in the workplace. However, without any political consensus on a long-term approach to the pensions tax regime, we envisage that individuals will continue to find it difficult to make important decisions about retirement and pensions, against a backdrop of ongoing instability.

The Chancellor clearly hopes that abolishing the LTA will remove a deterrent to those individuals (including doctors) continuing to work. How effective this will be, may depend on whether those affected believe abolition is likely to be reversed.

We support tax simplification, and the abolition of the LTA would certainly be a significant simplification of a very complex pensions tax regime. However, any simplification benefit would be lost, if lack of cross-party consensus means that a future government reverses the change.

The Chancellor highlighted that the increase in the AA from £40,000 to £60,000 would have a particularly important impact on the NHS, although this will of course depend in part on what happens to the LTA in the longer term. However, the additional flexibility could assist others, for example, those whose variable incomes mean that they can afford large contributions in some years but smaller, or no,contributions in others.

Where individuals have already retired and accessed their pension pots but now return to work, as the Chancellor hopes some of them will, they are likely to want to make additional pension contributions. Increasing their tax relievable allowance from £4,000 to £10,000 is unlikely to be a decisive factor for many, but it might be an added incentive for some to return to the workplace.

We recommend that the Chancellor might want to consider uprating any pensions allowances in line with inflation each year, so that they do not lose their value over time.

Looking beyond the tax regime, we know that many people in the UK are not saving enough towards their retirement – see, for example, research from the Pensions and Lifetime Savings Association. We would like to see the government take steps to address the needs of those working people whose savings are insufficient to produce an adequate level of income in retirement and those who do not have access to a workplace pension (for example, the self-employed). This could include changes to the legal and regulatory environment to encourage the pension industry to focus on providing pension savers with good outcomes in retirement.

On tax, it is vital that government policy on pensions provides stability, to avoid uncertainty for individuals and unwanted consequences, like those arising from the frequent reductions to allowances in recent years. We would like to see cross-party agreement on the need for a long-term strategy and a willingness to cooperate in developing it.

Spring budget tax consultations and calls for evidence – send us your views

The Chancellor presented the Spring Budget on 15 March. Several tax consultations, calls for evidence and discussion documents were published, or announced, on Spring Budget day 2023.

We welcome your views to inform our responses by email to tax@icas.com.

HMRC TARGETS ONLINE SELLERS & SOCIAL MEDIA INFLUENCERS

Over the last few years, the increased popularity of ecommerce and social media platforms has opened up new business opportunities.

For online sellers, the emergence of eBay, Etsy, Facebook marketplace, Amazon and Vinted, to name but a few, has created new avenues for their products to get to market. Other platforms such as TikTok and Instagram have enabled the emergence of social media influencers. But are those involved with such platforms aware of the associated tax implications?

HMRC nudge letters

Earlier this year, HMRC announced that it would be sending 'nudge letters' to individuals who have either sold goods or services online or have produced content using digital platforms. This is because HMRC has received information about income that it believes has not been properly declared.

If those taxpayers (after having consulting with their accountant/tax adviser) are of the view that all income has been correctly and properly disclosed, they can advise HMRC accordingly. But if these profits/earnings have not been correctly declared, HMRC's Digital Disclosure facility could enable them to bring their tax affairs up-to-date and settle any tax, interest and penalties due.

Over time, it is likely that HMRC will receive more detailed information from online platforms about the transactions that are taking place. So, if taxpayers have online income it is better for them to register for Income Tax Self Assessment in the normal way before the nudge letter arrives.

If taxpayers ignore a nudge letter and income should have been declared but has not been, it is likely that HMRC will more sceptically view their situation when it comes to penalties, as these take account of the level of co-operation and disclosure from the taxpayer. If a disclosure is 'prompted' then the taxpayer can expect a much more significant penalty than would otherwise be the case.

Trading allowance

For Income Tax purposes, a trading allowance exempts up to £1,000 of gross trading income per tax year. This is designed to avoid tax implications for small scale online sales, more akin to that of a hobby business with a modest income.

It's worth bearing in mind that the trading allowance is not available where the trading income is received from a company you or someone connected to you owns or controls, a partnership where you or someone connected to you are partners or your employer or the employer of your spouse or civil partner.

Beyond this, it is necessary for traders (including those operating online) to declare their income even if it is not their main source of income. So those employees with a small business on the side will need to consider whether they need to be registered for Income Tax self assessment. The threshold has not increased since it was first introduced, therefore more taxpayers will find that the trading allowance is insufficient to cover even a business which they may consider a hobby.

Value Added Tax (VAT)

In addition to Income Tax aspects, it is important to be aware of the special VAT rules in connection with online marketplaces. Section 95A VATA 1994 defines an online marketplace as "*a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace).*"

Where there is an online marketplace, there can be a deemed supply of goods sold through their platforms in certain circumstances and this can mean that the operator can be obliged to account for VAT and in some cases be held jointly and severally liable for VAT debts of non-compliant sellers. Because of these rules, it is likely that the various platforms will have a vested interest in ensuring that the businesses which operate on their platform are compliant with the rules.

COMPANIES HOUSE REFORM

Written by John Selwood ACA of Croner-i, ICAS Evolve Partner

Further guidance, commentary and tools on accounting for small businesses are in the Small companies Quick Link , the FRS 102 1A section and the FRS 105 section of Navigate UK GAAP Accounting. Look out for further analysis and developments in Audit & Accounting Weekly and Accountancy Daily.

Overview

Current state of play

Plans to reform Companies House have gathered pace over the last couple of months. In the Queen's Speech earlier this year, the government announced that it will legislate its plans for Companies House reforms through the Economic Crime and Corporate Transparency Bill during this parliamentary term.

It is currently uncertain how compliance will be enforced, but the new regulatory regime is expected to be more robust and potentially carry sanctions for breaches.

The idea behind the Companies House reforms is to make the information placed on the public record more transparent and reduce fraudulent activities by criminals. There are a number of issues which will be of interest to accountants where these reforms are concerned.

Effective date

No effective date has been announced for the Companies House reforms. However, the government are minded to apply the new provisions as soon as possible. From past experience, the government are likely to adopt a phased implementation over a period of months or even years.

Improving the quality of financial information at Companies House

Electronic filing

Under the proposed Companies House reforms, all company accounts will need to be filed digitally in iXBRL format and be fully tagged.

Small and micro company filing exemptions

Small and micro-entities will be required to file a profit and loss account and there will be no option to file abridged or 'filleted' accounts. Small companies will also need to file a directors' report, but micro-entities will not need to do this since the requirement to prepare a directors' report for a micro-entity preparing their financial statements under FRS 105 was repealed in 2016.

Eligibility statements

Dormant companies will need to file eligibility statements which confirm the dormant status of the business.

ID and implementing the ban on corporate directors

ID verification

Under the proposed Companies House reforms there will be ID verification needed for new and existing directors, Persons with Significant Control (PSCs), members of LLPs and general partners of limited partnerships. There will also be a requirement for a verified account to be created. This can be set up directly with Companies House or via a third-party. No directors will be able to be registered without a verified account and unverified directors and companies directed by such directors will be committing a criminal offence for which sanctions are likely to be imposed.

Corporate directors

There was a proposal in 2015 to place an outright ban on corporate directors. However, this was never legislated but the government are proposing to restrict the appointment of corporate directors as follows:

- all entities that are registered at Companies House must have at least one fully verified natural person directly associated with them on the register;
- the appointment of a corporate director must satisfy two conditions:
    1. that all directors of the company seeking such appointment are themselves natural persons; and
    2. those natural person directors are, prior to the corporate director appointment, subject to appropriate ID processes.
- companies which fail to satisfy these conditions cannot be appointed as a corporate director;
- these rules will extend to all appointable entities, such as limited liability partnerships; and
- corporate directors will be restricted to only those entities that are registered in the UK.

Companies House powers

Overview

The overarching objective of the Companies House reforms is to improve the integrity of the information lodged at Companies House. To that end, the registrar is going to be provided with more querying and checking powers (currently, the registrar must generally accept information at face value).

Power to query and check information

The new querying and checking powers will include:

- the power to query, reject and remove information provided to the register including new filings, existing information and, in some cases, company names and registered offices. These powers will be used on a discretionary basis using a risk-based approach and this is likely to be the case for information which is suspicious, fraudulent or likely to impact the integrity of the register;
- additional checks for new filings which include ID verification checks and checking prior compliance for outstanding documents. Any rejected documents will be returned with a reason for rejection. The company will then have the opportunity to provide further information within 14 days; and
- the register will have the power to punish non-compliance by imposing a sanction on the entity (further sanctions are being considered at the time of writing).

Communication with other agencies

The registrar will also be given the power to share data and pass relevant information to certain public, regulatory and supervisory bodies including law enforcement.

This will be the case where it:

- is required to allow the registrar to fulfil its statutory role and function;
- will assist other bodies in the prevention of crime or in the interests of national security; and
- will assist regulatory and supervisory bodies to fulfil their obligations and function.

The registrar will also be able to cross-reference data which is held by public and some private bodies in order to verify its authenticity or accuracy.

Discrepancy reporting requirements will be expanded so as to include director information and registered office addresses. The registrar will also be given the powers to extend these provisions in the future as necessary.

IR35 KICKED INTO TOUCH

In another IR35 case, the First Tier Tribunal allowed the taxpayers appeal in S & L Barnes Limited (2023) TC08697.

The tribunal judge was Heidi Poon, a former editor of Technical Bulletin.

The case involved Stuart Barnes, a former rugby international player and the services provided by S & L Barnes Limited to Sky, the television broadcaster. An interesting point was that the taxpayer was held to have failed the first two tests in the leading case of Ready Mixed Concrete (South East) Limited v Minister of Pensions National Insurance (1968) 2 QB 497.

S & L Barnes Limited provided services in relation to rugby union to a number of media organisations including The Times newspaper, Rugby World magazine and other broadcasters including TV3 in Ireland and Fox Sports. The Sky contracts represented about 60% of the company's income.

The company's case, summarised at paragraph 89 of the judgement was:

1) Mr Barnes was in business on his own account with several clients over a period of more than 25 years which was inconsistent with his being an employee of Sky, Times Newspapers or anyone else.
2) None of his print or television engagements were contracts of employment and the engagement with Sky was substantially similar to his engagement with Times Newspapers, which HMRC accept was not within IR35.
3) After Mr Barnes' Sky contract ended in 2019, he continued his business as a world leading expert through engagements with Times Newspapers and other broadcast media.
4) Neither Sky nor Times Newspapers controlled what Mr Barnes said or wrote. Both Sky and Times Newspapers engaged Mr Barnes to be "the voice of rugby" and to provide his unique expertise and insight into the game, not to control what he said or wrote.

5) The clause of the contract with Sky requiring Mr Barnes “to comply” with all directions or requests given by Sky must be construed in light of the commercial purpose of the contract.
6) Mr Barnes built and managed his business in the same way and took the same financial risks as any freelancer. His success or failure depended on his profile, based on his extensive knowledge and professional ability to both write and articulate under periods of pressure. Profile means being at the right games, being in print and having an active ongoing social media presence. Mr Barnes was not professionally or financially dependent on Sky. He worked for several television broadcasters and for newspapers and magazines.

Mr Barnes counsel submitted that a meeting of the first two conditions in the case of Ready Mixed Concrete (South East) Limited v Minister of Pensions National Insurance (1968) 2QB497 does not set up a presumption of employment. Whether the hypothetical contract is a contract of employment depends on all circumstances of the case.

HMRCs case was that the hypothetical contract, which the legislation requires to be considered, would have contained the following:

a) Mr Barnes would be contractually obliged to provide his services as a commentator, presenter, interviewer, guest or other participant, on Sky Sports, Sky Sports News or other Sky Sports platforms.
b) Sky would be obliged to pay Mr Barnes an agreed fee for those services on the basis that he was available to provide the services in according with the contract, whether or not it required Mr Barnes services for up to 228 days per year.
c) Mr Barnes would be personally obliged to perform the services. A substitute was always subject to Sky’s approval, and already under contract with, and be paid by Sky.
d) Sky would have a contractual right to determine when and where Mr Barnes would work, what he would do and how he would do it.
e) Sky would have final editorial control over the programmes on which Mr Barnes worked.
f) The place of work would either be the Sky studios or live at grounds of any rugby match and would be determined by Sky.
g) Sky would retain all intellectual property rights used and created during the provision of Mr Barnes’ services.
h) Mr Barnes’ activities and interests outside the performance of his duties would be restricted to the extent that they:
   - Were the same and similar to the services provided by Sky, unless permission was given; or
   - Conflicted with the interests of Sky and he would have to seek permission from the head of Sky Sports to provide similar services elsewhere.

HMRC did not consider that Mr Barnes was in business on his own account because:

i. Sky had first call on his services, he was required to provide them on an exclusive basis. He required Sky's permission before providing services to any competitor and this severely restricted his ability to provide his services as a commentator/pundit in the wider market.
ii. A significant proportion of live match coverage was for Sky, accounting for between 54% and 62% of services provided by the company in the period under review, and in the 3 prior years.
iii. All equipment was provided by Sky and not by Mr Barnes. He had no real opportunity to make a profit since his fees were similar to a salary paid monthly. His engagement was for long periods, but for specific tasks or short term projects, which is significantly more consistent with employment.
iv. Mr Barnes engaged no employees to assist with his duties with Sky providing all support. There was no significant risk of loss and payment of his fee was similar to a salary with no risk of late payment or bad debts. His expenses were reimbursed.
v. There was a possibility of defective work by Mr Barnes which would result in a cost to his company, particularly through Ofcom fines following breaches. There was no evidence that this possibility did not equally apply to employees.
vi. Mr Barnes’ working arrangements were materially similar to those of his co-commentator, Miles Harrison, who was an employee of Sky at all times.

The three stage test mentioned above in the case of Ready Mixed Concrete (South East) Limited is that:

"A contract of service exists if these three conditions are fulfilled.

1. The servant agrees that, in consideration of a wage or other remuneration, he will provide his own work and skill in the performance of some service for his master.
2. He agrees, expressly or impliedly, that in performance of that service he will be subject to the other's control in a sufficient degree to make that other the master.
3. The other provisions of the contract are consistent with it being a contract of services".

The judge in Ready Mixed Concrete went on to summarise these conditions:

1. Mutuality of obligation whereby there must be a wage or remuneration and the servant must be obliged to provide his own work and skill.
2. Exercise of control by one party on the other to create the master-servant relationship.
3. Assess other provisions of the contract as a "negative condition" whereby, if the first two conditions are satisfied there is a contract of employment unless there are other relevant factors to the contrary.

In the S & L Barnes case, the judge considered each of these tests as follows:

1. Mutuality of obligation

Sky was obliged to pay the monthly instalments of the fixed annual fee upon the rendering of invoices by Mr Barnes. There was an obligation for Mr Barnes to perform the services personally. Mr Barnes did not dispute that the first condition was satisfied.

2. Control to a sufficient degree

The judge found that there was a sufficient frame of control over Mr Barnes in the performance of his services and, in particular:

- While the agreements made no express provisions as to what programmes Mr Barnes would be required to perform his services, there was a clear understanding between them that the core services would be live commentary at matches and ancillary services on an ad hoc basis.
- The express provision that Sky would have first call on Mr Barnes' services. This would enable them to have control over the timing of the services, notwithstanding that Mr Barnes would have some latitude in negotiating his availability in specific instances.
- The core services being provided was live commentary when a match was being broadcast in real time, which meant Sky had control over the location, date and timing of Mr Barnes' services.
- Mr Barnes had autonomy as an expert over the content of his commentary but that was contextualised within the wider controls, such as Ofcom rules and Sky's editorial guidelines
- The contracts contained extensive warranty and non-solicitation clauses, many rights being assigned to Sky, to ensure that Sky would retain absolute control over the exploitation of the output from the matches broadcast.

The judge therefore concluded that there was a sufficient framework of control by Sky over Mr Barnes as a provider of services which satisfied the second condition of the Ready Mixed Concrete case.

3. Other provisions and factors

The judge noted that, as the first two conditions in the Ready Mixed Concrete case had been met, there was prima facie a contract of employment. However, she then went on to consider the third test in the Ready Mixed Concrete case:

(1) There is a distinction between a presenter and a commentator in the broadcast of a live match. Mr Barnes was a commentator which she found to be qualitatively different from the services provided by Miles Harrison, who was a presenter and an employee of Sky.

(2) Mr Harrison provided a running commentary of the match as "first voice" whereas Mr Barnes gave analytical insights, as "second voice" on good and bad moments of the game, team strategy and execution of moves by individual players. Mr Harrison would be on air most of the time with Mr Barnes coming in at the appropriate moments, often accompanied by coordinated replays.

(3) Without Mr Barnes' analytical input, the live commentary of the match with only the first voice would be duller and unlikely to attract as many viewers without the pundit input. The annual fee payable to Mr Barnes by Sky did not stipulate a minimum number of days of services, only the maximum. Mr Barnes could be working 25% less than the benchmark maximum without any issue being raised by Sky. She did not consider that the

annual fee resembled a salary, it was more of a block fee for the exclusive right to have first call on Mr Barnes' services for a period of time. Sky was content to pay a premium for the exclusivity.

(4) The provisions for intellectual property rights would place no embargo on Mr Barnes' right to reproduce his opinions elsewhere that he had given during the live match. The material that Mr Barnes had used to provide his services for Sky remained his intellectual property, essentially because he is the master and creator of his opinions as a pundit.

(5) Sky would not consider it to be a conflict of interest when Mr Barnes reproduced in newspapers, material which he gleaned in the course of providing his services to Sky. On the contrary, Sky would benefit from Mr Barnes reputation as a renowned newspaper columnist. Mr Barnes had much latitude in stating his availability to cover live matches for Sky. There was a gentlemanly consensus with Sky being reasonable in its requests.

(6) Mr Barnes would agree to be interviewed by Sky Sports News especially for matches not broadcast by Sky, such as the Six Nations and World Cup. The Sky interviewer of Mr Barnes might have been an employee for Sky, but it would be most unusual for an employer to interview its employee regularly on request, had Mr Barnes been a Sky employee. He was interviewed regularly because of his expert reputation. This was a strong indicator that the contractual relationship was not that of master-servant in a contract of employment.

(7) Outside of his Sky commitments, Mr Barnes was in business on his own account. He had 31 articles published during the 2015 World Cup, for example.

(8) Mr Barnes' experience as a professional ex rugby player stood him in good stead to maintain his profile as a pundit. He could profit from spending long periods watching replays of matches to find unique angles for his commentary and obtain fresh insights. There was no demarcation in the research and thinking which he carried out for his Sky broadcasts and his newspaper articles, and indeed any other work which he undertook.

(9) The profits Mr Barnes can make from sound management of his business is through the efficient use of his time which he did with the Sky engagements, writing the Sky online column, the rugby mid-week, and fitting his broadcasting engagements around his newspaper commitments.

(10) Every time he appeared on air for Sky, there was a reputational risk which is part and parcel of him being in business on his own account.

(11) Mr Barnes was not financially dependant on Sky during the relevant period, even although around 60% of his income came from that source. His other income was by no means modest and his refusal to enter into a new Sky contract after 2019 was an indicator that he was not financially dependent upon Sky.

Having considered all of the eleven points above, the judge concluded that the Sky contracts would not have been contracts of employment and that Mr Barnes would have been in business on his own account, had he not carried out his activities through his company. The judge also rejected HMRCs submission that Mr Barnes' contractual relationship with Sky was employment based on the parallels drawn between Miles Harrison and him.

The appeal was allowed.

THE DEVOLUTION REVOLUTION

Written by Justine Riccomini, Head of Tax (employment & devolved taxes) for Taxation Magazine

Does the Scottish Budget for 2023/24 represent the next milestone in the devolution revolution?

On 15 December, the Deputy Finance Minister John Swinney delivered his Scottish Budget speech, highlighting the fact that he had some difficult decisions to make whilst acknowledging the need to allocate additional funding to public sector pay and other emergent matters, which had opened up a £1.2bn gap in the public finances. So, what did he announce, and what is the current state of play on the Scottish taxes front for Scottish taxpayers and businesses?

A few notes on the Block Grant & Barnett formula and Fiscal Framework

Before I get started on tax, it seems appropriate to explain some basic detail on the way devolved taxes work in conjunction with the mechanism known as the "Block Grant and Barnett Formula" and the Fiscal Framework – the agreement between Scotland and the UK as to how the money filters through.

The Scotland Act 2012 simultaneously resulted in handing Scotland more financial powers increased its funding volatility. After that, the Scotland Act 2016 introduced powers over rates and bands of a partially devolved tax (the non-savings/non-dividend part of Income Tax) and an 'assigned' tax – VAT. As such, it was expected that Scotland's political decisions and economic performance would influence the amount raised; and the Scottish Government would bear any potential benefit or risk relating to those amounts, whilst conferring greater accountability towards its citizens on to the Scottish Parliament.

In 1998, when the Scottish Parliament was established, Scotland was largely financed by what is known as a "block grant and formula" system. All revenues were raised by way of central UK taxation, with a proportion being permitted to be spent at local devolved level and this amount consisted of a "block grant". The Barnett formula ('Barnett' being derived from Lord Barnett, the creator of the formula whilst serving as Labour Chief Secretary to the Treasury under Prime Minister James Callaghan in 1978) is a Treasury convention with no legal status which determines how the block grant is adjusted each fiscal year. Put simply, whenever there is a change in public services funding or a departmental budget change takes place in England, 'Barnett' allocates a similar amount per capita to each devolved jurisdiction. Therefore, it is vital that accurate-as-possible figures are maintained in relation to the movement of citizens around the UK – for Scotland, it is estimated that around 80,000 people currently move between Scotland and England each year, for example. It is vital to Scotland that HMRC classifies people correctly as "Scottish taxpayers" so that the revenue raised under the banner of Scottish Income Tax (non-savings/non-dividend) can be allocated as fully as possible to the Scottish purse. The outturn figures of actual income tax receipts are on a two-year time lag – so yearly forecasting is estimated by the Scottish Fiscal Commission based on previous years' outturn and current UK and Scottish Budget statements. The Scottish income tax revenue forecast for 2021-22 was £13,671m according to the Scottish Budget (2022/23), but the latest National Audit Office figures for the same period released in January 2023 show a slightly lower figure of £13,295m.

The fiscal framework is the intergovernmental mechanism under which agreement is reached on how the block grant is configured to take account of devolved taxes and expenditure (e.g. certain social security payments). The Fiscal Framework Agreement signed between the UK and Scottish Governments (published 25 February 2016) is currently in the process of being reviewed and updated. It includes mechanisms to make 'block grant adjustments' to revise the amount of the block grant (usually termed "Barnett consequentials") which are additional funding provisions under the UK-Scotland Fiscal Framework agreement whereby if a UK tax measure brings in more money this is proportionately passed on to Scotland under the 'no detriment' measure.

Income Tax measures

Scotland's income tax-setting powers are limited to rates and bands for non-savings, non-dividend income – which includes pensions, salaries and profits from unincorporated businesses. Savings and dividend income, National Insurance and the UK Personal Allowance remain reserved to Westminster. Scotland's progressive five rates and bands system sets it apart from the rest of the UK (note that in the Welsh Budget statement of 14 December the decision was made to keep its three income tax rates and bands at the same rates, and thus remain in line with England and NI).

In the latest Scottish Budget announcement, the decision was taken that the first three income tax rates applying to the non-savings, non-dividend income of Scottish taxpayers will remain as they are, whilst the two highest rates of tax will increase by 1%. In addition, the first four bands' thresholds would remain the same and only the fifth band would change. As such, no Scottish taxpayers will see any kind of reduction in income tax, but those earning over £125,140 will see the largest increase per head.

Those earning low incomes in Scotland will pay a small amount (around £22) less that their 'rest of UK' counterparts until their income reaches the breakeven point of £27,850, and thereafter, Scottish taxpayers will pay more tax.

From 6 April 2023 the following changes will take place in terms of Scottish Income Tax, subject to the Scottish Rate Resolution being passed prior to then:

The five rates and bands will therefore be:

Starter rate: 19% on income between £12,571* and £14,732

Basic rate: 20% on income between £14,733 and £25,688

Intermediate rate: 21% on oncome between £25,689 and £43,662

Higher rate: 42% on income between £43,663 and £125,140

Top rate: 47% on all income over £125,140

*The UK personal allowance is a reserved matter and unless the UK government changes it in the interim, the intention is to freeze this at £12,570 until 5 April 2027.

According to the Scottish Fiscal Commission's latest forecasts, this move could raise about £129 million, although the interactions with the block grant mechanism (Barnett Formula) under the Fiscal Framework agreement will essentially make this additional funding less visible, as they will be absorbed into a myriad of additional funding arrangements through the block grant. In fact, due to Barnett consequentials had the Deputy First Minister chosen to do nothing at all, the block grant would have been augmented by around £1.5bn anyway, according to the economists at Fraser of Allander Institute.

The freezing of the Scottish higher rate threshold at £43,663 once again highlights the enduring nature of the so-called 'NICs anomaly' for employed earners classified as Scottish Taxpayers on earnings between £43,663 and £50,270 (the UK higher rate threshold for income tax and the Upper Earnings Limit for National Insurance contributions) whereby they are classified as higher rate taxpayers in Scotland and thus liable to pay 42% tax from 6 April 2023 plus primary NICs at 12% - which amounts to an effective marginal rate of tax of 54%. On earnings above that level, the effective marginal rate then drops back down to 42% until it reaches £100,000. However, by freezing the tax bands, as wages rise, more and more employees will fall into this range.

The combined effect of this may affect so-called 'middle income' earners (those earning around say £40-55,000 per annum) who might be impacted by the cost-of-living crisis in terms of increased mortgage payments and other rising costs. If it does, they may well compare themselves to their 'rest of UK' counterparts who are paying 22% less taxes than they are on their earned income. Whilst this conundrum may not garner much sympathy from those taxpayers in lower earnings brackets, it's fair to say that in many sectors, the international demand for talent means that salaries above £43,662, at which higher rate tax is paid, are not exceptional. The Scottish tax rate may make it more difficult to attract skilled workers to be employed in Scotland. The combination of the 2% differential in both higher rate and top rate taxes between Scotland and the rest of the UK, together with the lower threshold at which higher rate tax starts in Scotland, may start to have an impact on people's choices, particularly at middle income levels.

Of course, decisions about where to live, work, educate your children, etc are entirely subjective and personal. To illustrate this, let's take the example of Valerie who works in the NHS in Lincoln as a mental health nurse, earns £48,000 per annum and has been offered a transfer to Scotland, where her parents live. Her partner Vaughan earns a similar salary in the police service and they have two children who are about to start secondary school – potentially a good time to make the move north. They currently own a four-bedroom property in Lincoln, which they would need to sell.

Clearly, when an employee moving to Scotland from elsewhere in the UK weighs up the attractiveness of the proposal at their own earnings level which would fall into the 'middle-income' range, that decision might need to include doing the maths on the tax position.

This decision might also be impacted by other aspects such as the size of house which an individual or family might buy in Scotland due to the existing rates of Land & Buildings Transaction Tax (LBTT), and which tend to be more punitive than England as the value of the property rises, in line with the Scottish Government's progressive tax policy in this area of tax.

If the couple could work at Forth Valley NHS trust and Forth Valley police, for example, they might be able to buy a four-bedroom property valued at £325,000 in Tillycoultry, Clackmannanshire. That would attract a LBTT liability of £5,850 as the couple will not be eligible for first time buyer's relief but if they both had to work in Glasgow, this liability jumps to £15,850 if a similar sized property in Robroyston, Glasgow, which has a higher valuation of £425,000, is to be purchased. More on LBTT and the Scottish Budget later.

In addition to that anomaly, another even more punitive effective rate of tax of 63% (61.5% in 2022/23) now exists in Scotland (compared to a 60% effective tax rate at the same level of earnings in the rest of the UK) at the level where earnings sit between £100,000 and £125,140 due to the UK personal allowance taper at earnings over £100,000 combined with the increase in the higher tax rate to 42%. Of course, once earnings reach £125,140, the Scottish top rate kicks in at 47%. The reduction in the top rate threshold from £150,000 to £125,140 brings that threshold into line with the UK additional rate threshold – and this was not entirely unexpected – noting of course that for a Scottish taxpayer, the additional rate (45%) applies to savings and dividend income (not devolved) and top rate (47%) applies to non-savings and non-dividend income.

Let's take Percy as an example of a higher earner suffering this anomalous effective rate of tax.

> Percy earns £115,000 per annum in 2023/24 at a senior management grade in the NHS. He is a Scottish Taxpayer.
>
> He will earn £15,000 over £100,000 when the personal allowance taper kicks in, and thus loses £7,500 of his Personal Allowance, with £5,070 remaining.
>
> £7,500 of additional taxable income is thus charged at the higher rate of 42% = £3,150.
>
> There is also £6,300 due on the £15,000 Percy has earned over £100,000.
>
> Adding the two tax amounts together, £3,150 + £6,300 = £9,450 tax payable on Percy's additional £15,000, which means:
>
> (£9,450/£15,000) x 100 = 63% effective tax rate on the £15,000 he has earned over £100,000.

Hypothecation?

In addition to the above changes, the Scottish Government took the unusual step of effectively substantially replacing the 1.25% health and social care levy which was repealed by the UK Government in September 2022, by stating that the 2023/24 increase in income tax on the higher and top rate bands by 1% would be ring-fenced for health and social care, raising an additional £1bn. It remains to be seen whether the parliamentary debates which follow this Budget announcement will allow this measure to pass. If the UK Government decides to allocate funding to health and social care from the additional income tax receipts it takes in from the UK Autumn Statement measures, then Scotland will in any case receive a greater share of Barnett 'consequentials' as a result through the Fiscal Framework.

Other income tax considerations resulting from the Scottish Budget

Of course, individuals are not the only ones affected by income tax. Scottish sole trader or partnership businesses will suffer additional income tax charges arising from these measures. These businesses will need to consider whether their tax status as it stands is adequate or the tax burden is too onerous, in which case they may decide to consider tax planning measures such as incorporation and other growth support measures. Of course, achieving this would depend on a range of different considerations and once again be an entirely subjective decision – but it could result in a lower tax liability. For those self-employed individuals thinking of setting up in or expanding into Scotland, this would also no doubt be a consideration. For the Scottish Government this may present a problem – albeit it is unlikely to be a huge one – because corporation tax is not devolved and so the loss of all or part of that income tax would be an undesirable outcome for the Scottish Government. It is a delicate balance with limited tax powers to balance the need to maximise income tax receipts which might flow straight into the Scottish purse against the loss of income tax receipts due to increased incorporation, conversion of income to capital gains, or relocation.

In terms of tax planning generally, taxpayer behaviour is a consideration for any government and in Scotland, the options are no different to the rest of the UK. Whilst higher earners are generally more mobile than lower earners and thus potentially capable of relocating to a lower tax jurisdiction, it is not likely that for the sake of one or two percentage points, they will leave Scotland in droves. However, less visible

measures could take place such as those on the margins of the next band up refusing promotions, overtime, and choosing to invest more gross income into pension schemes.

Land & Buildings Transaction Tax

The Land and Buildings Transaction Tax (Scotland) Act 2013 provides the charge to tax on residential and commercial land and buildings transactions (including commercial purchases and commercial leases) where a chargeable interest is acquired.

No land and buildings transaction tax is payable on a domestic property worth less than £145,001 or a commercial property worth less than £150,000 because these fall into the nil rate band. However, all transactions over £40,000 are reportable to Revenue Scotland unless they are exempt. A first-time buyer relief was introduced in 2018 for properties with a value of up to £175,000 and tapered thereafter.

An Additional Dwelling Supplement (ADS) of 3% was introduced with effect from 1 April 2016, ostensibly to improve the availability of housing for first-time buyers. It was to apply to the purchase of additional dwellings in Scotland (e.g. buy-to-let or second homes). From 25 January 2019 it increased to 4% in accordance with Part 3 and schedule 2A to the Land and Buildings Transaction Tax (Scotland) Act 2013. LBTT revenue forecasts for 2022/23 were £749m (of which £226m from non-residential transactions, and £390m residential property plus £133m net Additional Dwelling Supplement) according to the Scottish Budget 2022-23.

In the latest Scottish Budget announcement, two noteworthy points emerged:

1. The LBTT residential and non-residential thresholds were frozen – which might be seen by some observers as a form of stealth tax impacting all levels of society across Scotland – however, the impact on those purchasing residential properties might be lower than expected if the property market suffers from price drops. With mortgage interest rates rising again following the 15 December Bank of England base rate announcement, the long-term impact on the housing market is yet to be evaluated. The increased nil-rate band of £175,000 for first-time buyers which was brought in as a reaction to the covid pandemic, will continue to be available.
2. The additional dwelling supplement (ADS) increased from 4% to 6% with effect from 16 December 2022, subject to exclusions for transactions straddling that date. The Land and Buildings Transaction Tax (additional amount: transactions relating to second homes etc) (Scotland) Amendment Order, SSI 2022/375 makes the necessary changes. Undoubtedly, this 50% increase in the tax will be likely to make it more expensive for those individuals and businesses looking to buy a residential property to invest as an alternative source of income.

The Scottish government also intends to consult on draft legislation taking forward the conclusions from its previous consultation on the operation of the ADS.

A canter through other Scottish Taxes

Scottish Landfill Tax first came in to being from 1 April 2015 and currently raises around £100m per annum for the Scottish government. In the latest Scottish Budget announcement, the increase in tonnage rates is thought unlikely to significantly increase this level of revenue. However, the Scottish government clearly sees this as a driver to reach Net Zero targets and it is thought the increases will be applied year on year.

Scotland Act 2016 paved the way for Air Passenger Duty and Aggregates Levy to be devolved, and for VAT to be partially assigned to Scotland (in the form of 50% of VAT revenue estimated to have arisen from Scottish transactions) with corresponding reductions in the block grant.

The intention had been that UK Air Passenger Duty would be 'switched off' in Scotland on 1 April 2018, with Air Departure Tax taking effect from that date. Indeed, the Air Departure Tax (Scotland) Act 2017 received Royal Assent in July 2017. However, it was subsequently deferred by the Scottish government pending the resolution of issues around tax exemption for flights departing Highlands and Islands airports.

VAT assignment was originally intended to begin in April 2019, with a one-year transitional period to test the modelling, prior to going live from April 2020. VAT assignment has also been put on hold due to problems with the methodology and the lack of region-by-region VAT data not being maintained by HMRC. The anticipated revenue, based on historical forecasts from the Scottish Government, is around £5,801m, so from a devolved taxes point of view, it is somewhat disappointing that a way forward to channelling this money straight into the Scottish purse has not yet been devised.

In terms of Aggregates Levy, consultation is currently ongoing as to how the Scottish Aggregates Levy Bill might be structured and what the main drivers are, but

the timing of commencement remains uncertain. The Scottish Government will be free to make its own arrangements with regard to the design and collection of any replacement tax.

Local taxes (council tax and Non-Domestic Rates) are used to fund local authority expenditure. The legislative framework applies Scotland-wide, but administration and collection responsibility sits with each local authority. No changes were made to council tax in the latest Scottish Budget announcement despite lobbying calls for wholesale reform from many stakeholders and representative bodies – yet for the first time since 2007, Scottish Councils now have complete flexibility to set council tax rates going forward in 2022/23.

Non-Domestic Ratepayers received something of a boost in the current economic climate, however, with freezing of the Basic Property Rate and business incentives relating to greener plant & machinery using renewable energy sources in the drive to achieve Net Zero targets.

Some additions to local taxes are now in the pipeline and unlike national taxes, which cannot be devolved without obtaining prior permission from Westminster (only one other tax has been introduced in this way so far – a tax on wild fisheries), they are within the power of the Scottish government to legislate for, and for local authorities to administer and collect at their own discretion. Two examples of this are:

- Workplace Parking Licences
- Transient Visitor Levy (a.k.a. tourist tax)

The above were both put on hold due to the covid pandemic and even though the Workplace Parking measures have been legislated for and supported by SSI2022/4 – The Workplace Parking Licensing (Scotland) Regulations 2022 which came into force on 4 March 2022, no further announcements have been made as to implementation.

In September 2019, a consultation was issued by the Scottish Government that outlined the proposals for the introduction of a local discretionary Transient Visitor Levy (TVL). A response to the consultation was published by the Scottish Government in March 2020. Following inevitable delays due to the covid pandemic, as part of the Scottish Budget announcements of 9 December 2021, it was confirmed the Scottish Government would resume work on the Transient Visitor Levy proposal.

The resumption of work on the TVL (or "Tourist Tax") was also mentioned in the Framework for Tax 2021 document at page 20, which said: "The Scottish Government very much recognises the overall impact of the pandemic on the tourism and hospitality sector in Scotland. We will therefore carefully review the work paused at the onset of the pandemic to develop legislation that would give Councils the discretionary power to apply an overnight visitor levy and undertake further stakeholder engagement as we consider the next steps".

Transparency and accountability – do citizens have the information they need?

Finally, an important question which arises with devolved taxes (in all jurisdictions) is transparency and accountability. ICAS produced its unique 'Public Finances Accountability Guide' in April 2022 to how the UK and Scottish governments are held to account for their decisions on public finances, where the money comes from, how it is spent and prioritised and the results of audits of public accounts. For citizens to make educated decisions about everything from buying property, to working and paying income tax, to who to vote for in the next election, it is vital that they have clear and unequivocal factual information to rely upon which does not contain political spin, and it is the responsibility of government at all levels to ensure that the public has access to this so that they can understand how it all works and are able to comply with the demands of the tax legislation and guidance.

Inevitably, devolution leads to added layers of complication and opacity, and the Scottish, Welsh, NI and UK governments must prioritise the allocation of adequate resource to helping the general public and businesses join the dots to see the full picture.

DECIDING WHETHER A PAYMENT IS A TERMINATION PAYMENT OR A RESTRICTIVE COVENANT

Tax cases relating to termination payment settlements are not as common as they used to be. This case, known as "Mrs A v HMRC" was heard at the First Tier Tribunal and the decision was issued at the end of 2022.

Background

HMRC issued a closure notice to Mrs A in respect of a claim she had made in her 2018-19 tax return that would have resulted in an overpayment of tax amounting to £467,684. The claim was reduced to £6,136. Therefore, the appeal to the FTT involved a considerable sum of money (£461,548).

Mrs A had received a termination settlement amounting to £1,055,000 in May 2018 in return for her agreement to discontinue a claim to the Employment Tribunal and respect confidentialities. HMRC considered that the settlement was taxable under sections 401(1) 403(1) of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), allowing for the first £30,000 to be exempt from taxation. Mrs A argued that the payment received was not connected to the termination of her employment but was made in return for her agreement to respect the confidentialities.

HMRC then argued that if the sum received did not represent a termination payment, it must represent a restrictive covenant as Mrs A's conduct or activities were being fettered by the settlement agreement which she had signed. This would make it chargeable to tax under s.225 of ITEPA 2003 instead. Mrs A agreed that a restrictive undertaking had been signed up to but that it was nothing to do with her employment.

What was the court being asked to resolve?

Two issues required consideration, these were:

1. Whether the settlement value represented A) a termination payment, or B) a payment in return for agreeing not to do something (this could be not to pursue an Employment Tribunal claim or not to disclose confidentialities); or
2. If the payment was deemed to be B), whether this represented a restrictive undertaking taxable under s.225 ITEPA 2003.

Deliberations

When the employer did not uphold Mrs A's original grievance, the decision also contained a request to respect confidentiality. Mrs A sought advice on the matter from a professional adviser and commenced proceedings at the Employment Tribunal. The adviser had covered the notional charges to tax under both s.401 and s.225 ITEPA 2003, should a termination of employment occur, but Mrs A argued that at that stage, she had not considered leaving the employment, so the settlement agreement which was being proposed did not relate to her termination of employment at that time. However, after that, Mrs A decided that she was unable to carry on working for the employer due to the stress of it all and agreed to leave. Her lawyer agreed on a settlement figure of £1.1m under the provisions of a settlement agreement.

Mrs A suffered the substantial tax deduction noted above and wrote to HMRC to ask whether the tax treatment had been correct. She believed that the payment was not compensation for loss of employment, but rather, for injury to feelings – however under s.406 ITEPA 2003, injury is only exempt if it is classed as psychiatric and injury to feelings is not exempt. She then completed her self-assessment return to show an overpayment. HMRC opened an enquiry into the return and concluded that s.401 ITEPA should apply to it. As this would mean the first £30,000 would be exempt, she could only claim an overpayment of £6,136.

Several key sections of the settlement agreement were relied on by the FTT to assist them in reaching their conclusions, as well as numerous other tax cases on termination payments, each of which has a distinct fact pattern, but which enabled the judiciary to conclude that section 401 was widely drawn as it states: "or otherwise in connection with an employment".

Conclusions and decision

The FTT concluded: "In our view, it is clear from the terms of the Settlement Agreement that the payment was, at the very least, in consequence of or otherwise connected with the termination of Mrs A's employment." However, this was a secondary consideration. The FTT also concluded that the

primary decision had to be that the payment must have come under the charge to tax at s.225 ITEPA 2003 (and be taxable in full).

Statement of Practice 3/96 determines that if a specific payment is made in return for an agreement not to pursue an employment claim via the Employment Tribunal, it should automatically qualify as a restrictive covenant payment under s.225 ITEPA 2003. The Tax Tribunal chose to note that a Statement of Practice is merely an HMRC interpretation and has no legal force – but came to the same effective conclusion independently from its review of the settlement agreement clauses which repeatedly referred to restrictions being the main reason for the payment, that s.225 should apply anyway.

The FTT concluded: “There is no doubt that an agreement not to pursue claims or proceedings is a restrictive undertaking within the scope of section 225.” They went on to conclude at paragraphs 63 and 64 of the decision: “It was paid…in respect of the restrictive undertaking given by Mrs A that she would not make or pursue any claims against the Employer and/or the Owner relating to or arising out of her employment or its termination. Accordingly, we find that the Compensation Sum is chargeable to tax as earnings from employment under section 225(3).

That conclusion is sufficient to determine this appeal but, in case we are wrong, we consider whether the payment was received by Mrs A ‘directly or indirectly in consideration or in consequence of, or otherwise in connection with’ the termination of her employment and is therefore chargeable to tax as employment income, to the extent that it exceeds £30,000, under section 403(1).”

The FTT decided that the settlement could not be apportioned into different elements because it was clear that it was received primarily as a restrictive covenant and derived from employment. The appeal was dismissed and leave of appeal granted, to expire within 56 days.

Final thoughts

As the amount Mrs A received was deemed to be wholly taxable under s.225, technically speaking this negates the residual overpayment of £6,136 originally allowed by HMRC when they concluded the payment fell within s.401 ITEPA 2003. If HMRC acts upon this FTT decision and disallows the overpayment, Mrs A will be worse off than if she had accepted their original decision.

THE PROPOSED REVISED FRS102 SUMMARY

In December 2022, the Financial Reporting Council (FRC) published its proposed revisions to Financial Reporting Standard (FRS) 102.'The Financial Reporting Standard applicable in the UK and Republic of Ireland' and FRS 105 'The Financial Reporting Standard applicable to the Micro-entities Regime'.

These are contained in Financial Reporting Exposure Draft (FRED 82) 'Draft Amendments to FRS 102 The Financial Reporting Standard applicable in the UK and Republic of Ireland and other FRSs -Periodic Review'. The main proposals resulting from this second periodic review of FRS 102 and other UK Financial Reporting Standards are as follows:

FRS 102

(i) Introducing a new five step model of revenue recognition in FRS 102 based on that in International Financial Reporting Standard (IFRS) 15 'Revenue from Contracts with Customers' with appropriate simplifications. The extent to which this will change an entity's revenue recognition in practice will depend on the form of its contracts with customers.

This model is as follows:

a) Step 1 – Identify the contract(s) with a customer;

b) Step 2 – Identify the promises in the contract;

c) Step 3 – Determine the transaction price;

d) Step 4 – Allocate the transaction price to the promises in the contract; and

e) Step 5 – Recognise revenue when (or as) the entity satisfies a promise.

Detailed considerations relate to each of the above steps. Indeed, this is a far more detailed and structured approach to revenue recognition than is currently to be found in section 23 of FRS 102. An entity recognises revenue when (or as) it satisfies a promise to transfer a good or service or bundle of goods or services to a customer. A good or service is transferred when (or as) the customer obtains control of that good or service. For each promise identified an entity determines at contract inception whether the promise is satisfied over time or satisfied at a point in time. Control of an asset refers to the ability to direct the use of, and obtain substantially all of the remaining economic benefits that may flow from, the asset.

(ii) Introducing a new model of lease accounting based on the on-balance sheet model from IFRS 16 Leases, with appropriate simplifications. This is expected to impact the financial statements of many entities that are lessees under one or more operating leases. In contrast to current operating leases where lessees expense the rentals charged, they will be required to bring on the lease liability and the related right of use asset. There are exceptions for short term leases (12 months or less at commencement date) and low value leases.

Additionally, other incremental improvements and clarifications are proposed to FRS 102 which include.

- Greater clarity for small entities in the UK applying Section 1A regarding which disclosures need to be provided in order to give a true and fair view.
- A revised Section 2 Concepts and Pervasive Principles, updated to reflect the International Accounting Standards Board's Conceptual Framework for Financial Reporting, issued in 2018.
- A new Section 2A Fair Value Measurement, replacing the Appendix to Section 2 and updated to reflect the principles of IFRS 13 'Fair Value Measurement'.
- Removal of the option to newly adopt the recognition and measurement requirements of IAS 39 under paragraphs 11.2(b) and 12.2(b), in preparation for the eventual removal of this option, but permitting entities already applying the option to continue to do so in the meantime.

FRS 105

For micro-entities, the FRC is proposing to include the 5 step IFRS 15 revenue recognition model but not the on balance sheet lease requirements of IFRS 16 in FRS 105. It is also proposing to align section 2 concepts and pervasive principles to that in the 2018 IASB conceptual framework. There are also a number of more minor changes.

The consultation closes on 30 April 2023 and the proposed effective date of the amendments set out in the FRED is 1 January 2025. This will be subject to the FRC finalising its revisions prior to the end of this year. On 23 February we held a webinar at which Jenny Carter, the FRC's Director of Accounting Policy outlined the key proposed changes.

ICAS

PCRT HELPSHEET B – TAX ADVICE

Introduction – PCRT

Are there any constraints on the tax advice you may give?

Professional Conduct in Relation to Taxation (PCRT) sets out the fundamental principles and standards of behaviours that all members, affiliates and students must follow. It underwent substantial revision and was reissued with effect from 1 March 2017. Much of this was driven by a backlash against tax avoidance and the selling of tax schemes - the Government had called upon the professional bodies to take on a greater lead and responsibility in setting and enforcing clear professional standards around the facilitation and promotion of avoidance. The revision led to the introduction into PCRT of the Standards for Tax Planning (see below).

The standards for tax planning A member must observe these standards when advising on UK tax planning
• Client Specific Tax planning must be specific to the particular client's facts and circumstances. Clients must be alerted to the wider risks and the implications of any courses of action. • Lawful At all times members must act lawfully and with integrity and expect the same from their clients. Tax planning should be based on a realistic assessment of the facts and on a credible view of the law. Members should draw their clients' attention to where the law is materially uncertain, for example because HMRC is known to take a different view of the law. Members should consider taking further advice appropriate to the risks and circumstances of the particular case, for example, where litigation is likely. • Disclosure and transparency Tax advice must not rely for its effectiveness on HMRC having less than the relevant facts. Any disclosure must fairly represent all relevant facts. • Advising on tax planning arrangements Members must not create, encourage or promote tax planning arrangements or structures that: (i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation; and/or (ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation. • Professional judgement and appropriate documentation Applying these requirements to particular client advisory situations requires members to exercise professional judgement on a number of matters. Members should keep notes on a timely basis of the rationale for the judgments exercised in seeking to adhere to these requirements.

PCRT was restructured from 1 March 2019 to include a mandatory core, with five supporting helpsheets that offer guidance on the application of the PCRT Fundamental Principles and Standards for Tax Planning.

The November 2022 Technical Bulletin contained an article about the core PCRT. This article discusses PCRT Helpsheet B: Tax Advice.

Helpsheet B – tax advice

Helpsheet B: Tax Advice focuses on the Standards for Tax Planning, with guidance on each of the Standards and 15 Frequently Asked Questions that have been drafted to help illustrate points to consider when giving tax advice (or tax planning, or tax avoidance – depending on your take on this – but, broadly, advice to a client that aims to minimise their tax payable or maximise a repayment of tax).

The fourth standard is probably the most contentious:

'Members must not create, encourage or promote tax planning arrangements or structures that: (i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation; and/or (ii)

are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation.'

But what exactly is a tax planning structure or arrangement that is highly artificial or highly contrived? And, in some cases, what was the clear intention of Parliament? No doubt, good tax advisers seek to ensure that their clients pay the right amount of tax at the right time – but what is this when set against tax rules that are often complex, and which may be ambivalent and enacted by parliament to offer tax savings to drive certain behaviours.

The propriety of tax advice can also be set against the potential for conflicts that come from being a chartered accountant and bound by the Code of Ethics, which confirms the primary legal duty of care is to the client. Agents who are being paid to act for taxpayers will have contractual terms in place, governing the relationship with their clients. However, tax agents also have a duty to the public good. Definitions of tax avoidance tend to be based on the premise that it is within the law but there is a spectrum in which this can sit – and some schemes are more aggressive than others.

Guidance – is the tax planning compliant with PCRT?

Helpsheet B sets out to provide tax advisers with practical guidance in this contentious area when considering whether advice complies with the Fundamental Principles and Standards of Tax Planning. There is a list of matters to consider as follows:

- Have you checked that your engagement letter fully covers the scope of the planning advice?
- Have you taken the Standards for Tax Planning and the Fundamental Principles into account? Is it client specific? Is it lawful? Will all relevant facts be disclosed to HMRC? Is it creating, encouraging or promoting tax planning contrary to the 4th Standard for Tax Planning.
- How tax sophisticated is the client?
- Has the client made clear what they wish to achieve by the planning?
- What are the issues involved with the implementation of the planning?
- What are the risks associated with the planning and have you warned the client of them? For example:
    - The strength of the legal interpretation relied upon.
    - The potential application of the GAAR.
    - The implications for the client, including the obligations of the client in relation to their tax return, if the planning requires disclosure under DOTAS or DASVOIT and the potential for an accelerated payment notice or partner payment notice?
    - The reputational risk to the client and the member of the planning in the public arena.
    - The stress, cost and wider personal or business implications to the client in the event of a prolonged dispute with HMRC. This may involve unwelcomed publicity, costs, expenses and loss of management time over a significant period.
    - If the client tenders for government contracts, the potential impact of the proposed tax planning on tendering for and retaining public sector contracts.
    - The risk of counteraction. This may occur before the planning is completed or potentially there may be retrospective counteraction at a later date.
    - The risk of challenge by HMRC. Such challenge may relate to the legal interpretation relied upon but may alternatively relate to the construction of the facts, including the implementation of the planning.
    - The risk and inherent uncertainty of litigation. The probability of the planning being overturned by the courts if litigated and the potential ultimate downside should the client be unsuccessful.
    - Is a second opinion necessary/advisable?
- Are the arrangements in line with any applicable code of conduct or ethical guidelines or stances for example the Banking Code, and fit and proper tests for charity trustees and pension administrators?
- Are you satisfied that the client understands the planning proposed?
- Have you documented the advice given and the reasoning behind it?

Consideration of these points should assist the tax adviser in making sure that all relevant points beyond the technicalities have been considered and that their position is sound.

Frequently Asked Questions

There are 15 FAQs in Helpsheet B which, broadly, fall into the two categories of ethical considerations and risk management.

1. **Ethical considerations – is it right to be doing a particular thing?**

The helpsheet makes it clear that an adviser should be able to give bona fide tax advice to clients based on an

analysis of tax law as it applies to their situation, but that PCRT Standards are designed to address behaviours that are damaging to the tax profession. The concern is over advisers who create schemes to exploit loopholes and frustrate the will of Parliament, or who promote them to clients, or encourage clients into them.

And in a more borderline situation, the helpsheet notes that an adviser needs to advise the client dispassionately, objectively and fully (including in relation to the costs and risks of HMRC challenge and any similarly foreseeable results). This would include exploring the substantive nature (or, at the opposite end of the spectrum, artificiality) of the arrangements proposed: balanced advice, which covers such risks, as distinct from encouraging the client into such arrangements, should not amount to the creation, promotion or encouragement of arrangements that are against the clear intention of Parliament or seek to exploit shortcomings in the relevant legislation.

2. Risk management – providing good, timely advice, in a professional manner.

Risk management is important in relation to giving any tax advice. As often as not, it is the lack of sound risk management that can give rise to complaints. Hence, there are a number of FAQs addressing this in relation to the giving of tax advice and which cover:

- The need for an engagement letter that specifies scope and responsibilities.
- Considerations if there is to be an introduction of your client to another adviser.
- Commission – and the need to disclose and account for any commission.
- Relying on an opinion provided by Counsel.
- The inclusion of another adviser's claim (e.g. R&D claims) in a tax return for which you are responsible.

In an earlier Technical Bulletin article on Helpsheet A: submission of tax information and 'tax filings' it was noted that queries are often raised with the ICAS tax team; *'Should the agent include third party advice in a client's tax return?'* . Guidance on this is in the FAQs in Helpsheet B, and says:

'You should not include within the tax return a claim for a tax advantage which you consider has no sustainable basis based on the information provided to you.'

Questions to consider are summarised as:

- Do I believe I have sufficient understanding of the planning to be satisfied that there is a sustainable filing position, or do I need to take a second opinion? Is it so significant that I should caveat my compliance responsibility?
- If the client provides inadequate information for you to form an opinion as to the sustainability of the filing position, then you should ask for further information. If no further information is forthcoming, you should not include a claim for a tax advantage on the tax return, document your decision and explain your reasons to the client.
- If you do receive additional information but you are unable to draw a reasoned conclusion you should seek specialist support (either within your firm or externally) or recommend that the client obtains advice elsewhere.

Maintaining standards

ICAS members are asked to be mindful of PCRT in all their work; further discussion of the fundamental principles and standards for tax planning is in the PCRT, and in the helpsheets. Should you have queries regarding PCRT, contact the helpdesk at ICAS.

AML UPDATE

Discrepancy reporting

Effective 1 April 2023, Regulation 9 of The Money Laundering and Terrorist Financing (Amendment) (No.2) Regulations 2022 amends regulation 30A(1) of The Money Laundering Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to extend the scope of the discrepancy reporting regime so that it is an ongoing requirement and limiting the requirement to report only 'material discrepancies'.

Regulation 30A of the MLRs requires relevant persons to report to the Registrar of Companies any discrepancies between the information they hold about the beneficial owners of companies, as a result of CDD measures, and the information recorded by Companies House on the public companies register. The requirement applies at the onboarding stage, "before establishing a business relationship" with the amendment aiming to enhance the accuracy and integrity of the register by making the obligation ongoing.

Firms should ensure that their CDD procedures, policies and staff training are updated and amended accordingly

HMRC & COMPANIES HOUSE UPDATES

Important update from HMRC on VAT penalty point notices for agents and their clients

HMRC is starting to issue VAT penalty notices to customers who file or pay their VAT late. If you have been authorised by your client to act on their behalf, you will receive exact copies of any notices that are issued to your clients.

Due to recent GDPR concerns raised by the agent community, HMRC has removed customer details (names and addresses) from the copies of letters sent to authorised agents. This is to avoid the risk of customer's details being visible through the envelope window.

What can agents do if they have any queries about letters they receive?

If you receive one of these notices you can check which client the notice refers to by checking the VAT registration number (VRN) on the notice. Using the VRN, you can also view your client's position by accessing the Agent Services Account.

HMRC is working on a solution to resolve this issue and avoid any confusion in future communications to agents.

Tax avoidance – accelerate payment notice late payment penalties

Some customers who have used tax avoidance schemes have received accelerated payment notices and associated late payment penalties.

HMRC can issue accelerated payment notices in certain circumstances in tax avoidance disputes and requires the customer to make a payment of the disputed tax on account until the dispute is resolved. Failure to pay by the due date can result in late-payment penalties being charged.

The interaction between accelerate payment notices, late payment penalties and settlement is complex and can cause confusion. Where late payment penalties have been specifically included in the settlement, they are now due to be paid so clients may receive correspondence from HMRC regarding payment of these amounts.

Clients should take action as outlined in the letter and contact HMRC if they may have problems paying.

More time for voluntary National Insurance contributions

The government has extended the voluntary National Insurance deadline to 31 July 2023. The original deadline was 5 April 2023. Taxpayers therefore have more time to decide whether to fill any gaps in their National Insurance record dating back to April 2006 to boost their state pension.

Agents are urged to make clients aware of the new deadline so they do not miss out.

Eligible taxpayers can find out how to check their National Insurance record, obtain a State Pension forecast, decide if making a voluntary National Insurance contribution is worthwhile for them and their pension, and how to make a payment on GOV.UK.

Taxpayers can check their National Insurance record through the HMRC app or their Personal Tax Account.

Consultation on a single scheme for R&D tax relief

As part of the R&D tax reliefs review, a recent HMRC and HM Treasury consultation set out proposals for a single scheme for R&D tax relief, to replace the current two schemes – the SME scheme and the R&D expenditure credit (RDEC) scheme. The consultation invited views on the design of the potential single scheme. It also asked whether more generous support should be provided for different types of R&D or for more R&D intensive companies.

ICAS has responded to the consultation. We supported the government's aim to introduce a simplified, single relief based on the current RDEC scheme. The complexity of the current schemes can cause difficulties for claimants and HMRC. Our response also covered other design issues and the need to tackle abuse and error. For more details see the article on ICAS.com.

Talking Points

HMRC's regular Talking Points provide information, guidance and tips to help you understand tax issues.

Below are a number of recorded webinars which may be of interest:

- An overview of the new VAT late submission, late payment penalties and interest charges
- The Trust Registration service and reporting discrepancies.
- Super-deduction first-year capital allowances
- Declaring grants on a Company Tax Return (CT600)

Filing resolutions at Companies House

The Companies Act 2006 requires a company to submit a copy of a resolution to the Registrar in order to comply with several different filing obligations. It has previously been the Registrar's practice to accept a set of minutes that contains details of the resolution.

From 13 March 2023 the Registrar will no longer accept a set of minutes which have a resolution embedded within them. A company will need to file a separate copy of the resolution in order to comply with its filing requirements. The Registrar will regard sets of minutes that are submitted from 13 March 2023 to be unnecessary material which is not easily separable and so the Registrar will reject such documents.

Companies House Direct and WebCHeck

Companies House have confirmed that the Companies House Direct (CHD) and WebCHeck services are closing on 30 November 2023.

Users should use the 'Find and update company information' service instead.

Capital Gains Tax on UK property paper return

Following customer and representative body feedback, HMRC has made the paper version of the Capital Gains Tax on UK property return, and notes to help you complete the return, available to download.

This is on a trial basis of up to 4 months starting from 28 February 2023. The downloadable forms are not intended to replace the online Capital Gains Tax on UK Property Account and are only intended to assist those who cannot report and pay tax using the online service. HMRC will review usage of the forms for the duration of the trial period.

Plastic Packaging Tax – check if any tax due by 28 April 2023

Plastic Packaging Tax (PPT) was introduced on 1 April 2022. If your clients manufacture or import 10 or more tonnes of plastic packaging within a 12 month period they must register for PPT, even if their packaging contains 30% or more recycled plastic.

PPT also applies to plastic packaging that is imported already filled with goods, but you only need to account for the weight of the plastic packaging towards the 10-tonne threshold.

If your clients are liable to register or have already registered, from 1 April 2023 they must submit their PPT return and pay any tax due by 28 April 2023.

For further information and support, visit the PPT collection page.

New Alternative Dispute Resolution guidance

HMRC has published a new Alternative Dispute Resolution (ADR) process manual for customers and representatives. The new guide provides greater transparency to the HMRC process.

Customers can apply for ADR at any stage of a compliance check. Once an application for ADR is received, it is assessed to determine if the case is suitable and meets the criteria for mediation.

TECHNICAL BULLETIN

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