Technical Bulletin

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ICAS raises concerns about HMRC service levels

HMRC is required to have a Charter which includes "standards of behaviour and values to which HMRC will aspire when dealing with people in the exercise of their functions". It is also required to produce an annual report reviewing the extent to which it has demonstrated the standards of behaviour and values set out in the Charter.

ICAS and other professional bodies, including the ICAEW and CIOT, belong to the Charter Stakeholder Group (CSG). The group regularly meets HMRC to discuss how the Charter is being reflected in taxpayer and agent experience. It also gives formal input about HMRC's performance against the Charter standards, for inclusion in the annual Charter report.

The report for 2022-23 was published on 17 July. The CSG provided an overall assessment, which appears in section four of the report, and comments on the individual standards, which can be found in Appendix 3. The CSG input was based on the results of a survey of agents and taxpayers, conducted during February 2023. Respondents were asked to give a score out of 10 for HMRC's performance against each of the Charter standards, with 1 being the lowest and 10 being the highest.

As last year, complaints about HMRC's service levels permeated the feedback received. 'Being responsive' had the lowest score, with an average of just 2.3 out of 10. 'Making things easy' and 'getting things right' also scored poorly, at 2.7 and 3.4. It is disappointing that these scores were so low, as these standards are crucial to the effective operation of the tax system.

The remaining standards typically address the context in which HMRC operates, and these scores were higher, particularly around mutual respect and data security, the latter scoring the highest average score in the survey of 6.5.

Contents

The CSG survey also addressed awareness of the Charter, and HMRC's accountability against it. Just over 75% of respondents were aware of the HMRC Charter, though awareness was much greater amongst agents (80%) than taxpayers (56%). HMRC is taking steps to embed the Charter amongst its staff, and the results indicate that more needs to be done to promote the Charter to its customers.

Over 85% of respondents did not think that HMRC is held sufficiently accountable for its performance against the Charter. This percentage was higher amongst agents (88%) than taxpayers (79%). Two themes emerged from the freeform comments. Firstly, whether there is sufficient internal accountability within HMRC ie whether the performance of HMRC staff is adequately managed. Second, that there is no external accountability for HMRC against the Charter.

See the article on ICAS.com for the CSG comments on the individual Charter standards

Moveable Transactions (Scotland) Act 2023

The Moveable Transactions (Scotland) Act 2023 ('the Act') received Royal Ascent on 13 June 2023 after being passed by the Scottish Parliament on 4 May 2023.

Purpose and overview

The Act will modernise the law of Scotland in relation to moveable transactions, in implementation of the Scottish Law Commission Report on Moveable Transactions published in December 2017.

The Act reforms two elements of the law on moveable property:

- The assignation of claims
- The law of pledges

Assignation of claims

The Act will allow businesses to raise finance by assigning (selling) claims that they will have a right to, so that they get money from the person to whom the claim is assigned faster than would be the case if they waited until the claim was paid by the debtor.

For example, if a business does a lot of work in May that clients will pay for in June, that business still needs enough money in May to pay its expenses. The changes introduced in the Bill would allow the business to get money in May by assigning its claim for the money its customers owe in June, for example, to a third party such as a bank or specialist invoice factor.

If the business needs £1,000 to pay its expenses in May, a third party could lend the business that money in May. In return, the business would give the third party its right to be paid by its customers (who owe £1,000) in June. In June, the customers pay the third party instead of the business.

This will help businesses with cash-flow problems get money when they need it on the strength of money owed to them.

Law of pledges

The Act aims to offer more flexibility to raise finance.

For example, a business may need to borrow money and want to grant a pledge over its machinery to secure that loan.

Under the previous law, this could only be done by delivering that machinery to the person granting the loan. That does not work for many businesses that require the use of that machinery to keep operating.

The Act allows a new form of pledge (the statutory pledge) to be granted without delivering the machinery. Instead, the statutory pledge is recorded in a new register. This means the business could keep operating the machinery as it needs to, but the person granting the loan still has security over the machinery in case the business does not repay that loan.

Importantly, the Act will also now facilitate the granting of security over non-physical assets which cannot be delivered. For example, statutory pledges will be able to be granted over intellectual property rights.

New registers

The Act will result in the creation of two new registers, operated by the Registers of Scotland:

- The Register of Assignations
- The Register of Statutory Pledges

The registers can be used to grant assignations of claims (as an alternative to intimating the assignation to the debtor) or statutory pledges over moveable property.

Considerations

The reforms under the Act will affect different types of businesses, sectors and financing and sale transactions in different ways and all members should be alive to the changes made. We will provide more analysis closer to its implementation.

The changes brought about by the Act are expected to be of particular interest to insolvency professionals due to the impact on:

- The number of creditors holding securities and the nature of those securities (and the resultant impact on the realisation of assets, distributions, authority to take fees etc).
- The requirement to check the newly created registers to identify assets.

Next steps

We have been in touch with the Scottish Government team responsible for the Moveable Transactions legislation. They have indicated that they are still working on the implementation plan and timings. Therefore, notwithstanding the passing of the Act, there remains a lot of work to do before the provisions will come into force, including:

- A consultation on the definition of insolvency and possible regulations flowing from that.
- Regulations about the Rules in respect of the operation of the new registers.
- Completion of the registers themselves.
- Regulations relating to fees for use of the registers.
- A section 104 Order under the Scotland Act 1998, to apply the provisions in the Act to financial collateral and financial instruments.

In view of this, it has been indicated that it will be at least a year from now before everything is ready and the provisions are commenced. Implementation is therefore realistically expected to be in the later part of 2024, though it is conceivable that a general election could further impact those timings.

We will remain in contact with the Scottish Government and will be interested to read and respond to the consultation on the definition of insolvency for the purposes of the legislation in due course.

ICAS responds to HMRC's deposit return scheme consultation

Justine Riccomini explains ICAS' response to the deposit return scheme consultation.

Deposit return scheme and VAT

The proposals for the deposit return scheme are largely around VAT, which is not a devolved tax, so the consultation has been issued by the UK government.

The proposal is to charge VAT to importers and manufacturers of drinks in the UK on the difference between the drinks containers they issue, and the containers received back for recycling. The VAT charge will be applied to the deposit value for each container, using the VAT fraction – for example, it is based on the VAT inclusive value and will therefore amount to 3.33p per container.

So far, the consultation is the only document to have been issued and HMRC has yet to author a VAT notice setting out the mechanics of how the VAT treatment will apply and how it should be accounted for.

The Scottish Government had been tasked with implementing the scheme with Circularity Scotland by 1 March 2024 following a delay to commencement announced by the First Minister in April 2023 – the original start date was 16 August 2023. The UK scheme, which is to be operated by England, Wales and Northern Ireland as a joint scheme with slight regional differences, is due to commence in summer 2025.

ICAS understands that following a proposal by the UK government to exclude glass from the DRS altogether, the Scottish Government has issued a statement to say that the deposit return scheme in Scotland is now to be delayed until October 2025 "at the earliest". ICAS will continue to monitor progress and report periodically, and we look forward to seeing the outcome of the UK government consultation in due course.

ICAS has been approached by members to make representations about the perceived inherent unfairness of the VAT scheme insofar as cash flow, additional administrative burdens and overall cost, the practicalities of its operation, and the potential unintended consequences/behaviours arising from it as well as cross-border matters.

Read the ICAS response here.

HMRC loss at Tax Tribunal over P11D dispensation row

Justine Riccomini explains how NMW Solutions Ltd won its case at the First Tier Tribunal.

Who would have thought that something as ostensibly simple as a P11D dispensation would be the subject of a tax tribunal case?

In the NWM Solutions Ltd v HMRC [2023] UKFTT 364 (TC) case which was decided in April 2023, the P11D dispensation took centre stage, which serves to remind us that any aspect of taxation can potentially come back to bite us. However – in this case, it wasn't the employer (an umbrella company) who received the bite – it was HMRC.

Obsolete legislation

There is no longer a requirement for an employer to obtain written permission to exclude certain benefits in kind from a P11D (a P11D dispensation), due to the introduction of so-called "benchmark rates" for travel and subsistence payments, which for the 2015-16 tax year are set out at EIM05231.

The rules contained within s.65 ITEPA 2003 and s.70 (2)(c) ITEPA 2003 which were removed from the statute books on 23 March 2015 under FA2015, required the employee or director to have "paid away" the expenses. In other words, they had to have incurred an expense for it to have been reimbursed to them free of income tax and NICs under the terms of the P11D dispensation. The employer was supposed to check that the expenses had in fact been incurred. The requirement to actually incur additional expense (as opposed to taking a home-made packed lunch) was also contained in EIM05231 for the 2015-16 to 2018-19 years; but from 6 April 2019, the legislation at s. 289 ITEPA was amended by virtue of s.289A(4A) ITEPA 2003 in FA 2019 to lower the checking requirement to that of ensuring that qualifying travel had been undertaken. This new guidance is set out at EIM30225.

In this case, the employer was paying scale rate expenses for subsistence. When HMRC demanded to see receipts for all the meal allowances that had been paid, the employer found they could not provide them in many cases. HMRC did not revoke the dispensation as they would have been entitled to do under s. 65(6) ITEPA 2003. Nevertheless, they argued that NWM owed almost £2m in Income tax and NICs.

Cases considered

The following cases were referred to by the judiciary in helping them reach their decision:

- Pook (Inspector of Taxes) v Owen (1969) 45 TC 571 (HL)
- Donnelly (Inspector of Taxes) v Williamson [1982] STC 88 (HC) (Williamson)
- Cheshire Employer and Skills Development Ltd v RCC [2012] EWCA Civ 1429 (CA) (Cheshire) and
- Reed Employment plc v RCC [2014] UKUT 160 (TC) (UT) (Reed).

Turning point

At Paragraphs 66-68 of the judgement, Judge Austen states:

"The parties are in agreement that the Dispensation in this case was in force at all material times. As a result, we consider that the only factual question which arises for determination at this point is whether NWMSL had an obligation to account for tax for reasons unrelated to s.65, per Reed FTT at [292]. If the answer to that is "yes", then then NWMSL would have to account for that tax (because s.65 and the Dispensation would be irrelevant, whether or not in force). But if not, then Reed at [334]-[337] is clear in our view that the Dispensation was "fully effective…unless and until revoked". Most importantly, our own construction of s.65 leads us to the same conclusion.

67. We have concluded that the "listed provisions" in s.65(1) did apply to the payments subject to this appeal because (unlike those in Reed), we found above that, being the reimbursement of expenses incurred by employees, the payments were within the scope of Chapter 3, which is one of the "listed provisions" in s.65(1).

68. As a result, we have decided that the reasoning in Reed at [334]-[337] applies, as contended by Mr Ewart. The effect of the Dispensation is therefore that…all the payments subject to this appeal were automatically removed from any liability to tax."

This was a turning point for NWM because the FTT considered that as HMRC had not revoked the dispensation, the tax and NICS were not payable as

the spirit of the dispensation was to provide an administrative easement.

Conclusion

In allowing the appeal in full and setting the HMRC determinations aside, the FTT concluded:

"… the effect of a dispensation is to remove relevant payments entirely from the scope of taxation. We therefore conclude that unless and until a dispensation is revoked, it is not open to HMRC to assess to tax any payment purportedly made under it. In this case, the parties were agreed that the Dispensation was never revoked by HMRC. Accordingly, even if HMRC were right to say that NWM was in material breach of the conditions in the Dispensation, they could not issue the Determinations and Decisions, and it would have been irrelevant even if NWMSL was found to be in material breach of the conditions purportedly contained in the Dispensation."

It is worth reviewing cases such as this when the taxman comes to call. In this case, the employer saved the best part of £2m.

Let us know your views

If you wish to contribute to the debate…. Why not join an ICAS tax committee and bring your expertise straight to the Tax team?

Let Property: HMRC compliance activity update

Written by John Lewis, Senior Consultant – Tax Investigations at Markel, ICAS Evolve Partner

The flow of data to HMRC from a wide variety of sources has always been a useful tool in HMRC's armoury. We expect to see a surge in compliance activity in this area for a couple of reasons.

Firstly, Airbnb have confirmed that they are already providing HMRC with certain information concerning transactions which have taken place on their platform in relation to UK landlords. No doubt HMRC will be utilising that information to target landlords who have failed to meet their tax obligations.

For that reason, landlords who have either understated or failed to return their property income to HMRC should consider making a disclosure to HMRC sooner rather than later.

Secondly, last month the government introduced the Renters (Reform) Bill into Parliament. One of the features of the Bill means that if it becomes law, a national database will be set up in relation to private rental accommodation.

The database would require all landlords to register themselves, as well as the properties that they let.

Whilst at present it is not clear whether HMRC would obtain access to this data, it would clearly be of interest to the department and likely that they would use their bulk data gathering powers to obtain it. The data provided by Airbnb provides an example of how HMRC are already utilising their bulk data gathering powers in practice.

By way of some background, since 2013, HMRC have achieved great success through the use of its Let Property Campaign (LPC), which provides landlords who owe tax through letting out residential property, the opportunity to bring their tax affairs up to date.

When introduced, it was originally estimated that approximately 1.5 million landlords had not paid the correct amount of tax. At present, HMRC have received disclosures from less than 10% of those landlords, however, for the reasons set out above this is likely to increase significantly.

Being proactive and making a disclosure to HMRC before they approach landlords directly will achieve a better outcome than delaying until that dreaded brown envelope comes through their letterbox.

The tax investigations team at Markel Tax have a wealth of experience in handling various disclosures to HMRC, including those under the Let Property Campaign (LPC).

Full expensing: Q&A

In the spring Budget, Chancellor Jeremy Hunt announced that "full expensing" would replace the Corporation Tax super-deduction from 1 April 2023. Under full expensing, a new 100% First Year Allowance will be available for qualifying assets in the Capital Allowances main pool and a 50% First Year Allowances for qualifying assets in the Capital Allowances special rate pool (including long life assets).

As more details have become clear in the Finance Bill, we have prepared a list of common questions that your clients may ask about full expensing and how it may affect their business.

Q: How will full expensing affect unincorporated businesses?

A: Full expensing will only be available to companies.

Unincorporated businesses will remain able to claim Annual Investment Allowance (AIA) on qualifying expenditure up to the £1 million annual limit, which may need to be shared between businesses under common control. In the case of partnerships, AIA can of course only be claimed where all members of the partnership are individuals.

Q: Will full expensing be available for all plant and machinery additions?

A: Full expensing is only available on new and unused plant and machinery additions by companies from 1 April 2023 onwards (additions by companies before 31 March 2023 may qualify for the super-deduction). Companies will still be able to rely on AIA for used plant and machinery additions, provided they otherwise qualify.

Expenditure on cars will not qualify for full expensing, therefore the tax relief on cars will depend on the CO_2 emissions of the vehicle.

Full expensing is also subject to the general exclusions in Section 46 CAA 2001. Full expensing will not be available in the period where the business activity is permanently discontinued and in cases where the expenditure is on plant or machinery for leasing (although exceptions apply).

Full expensing has similar anti-avoidance measures to the super-deduction rules to stop allowances where arrangements are "contrived, abnormal or lacking a genuine commercial purpose". It is also not available where the asset has been gifted or transferred between connected parties.

Q: If full expensing is not available on cars, what capital allowances are available?

A: The Capital Allowances available will be based on whether the car is new and unused and the car's CO_2 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.

Cars are covered in more detail in our recent article.

Q: Is full expensing available on hire purchase assets?

A: Assets purchased on hire purchase will be eligible for full expensing, subject to the other criteria being met.

Where payments have not been made, capital allowances can only be claimed on an asset bought on hire purchase when it is brought into use.

Q: In what circumstances would an asset being leased qualify for full expensing?

A: Exclusion six of Section 46 CAA 2001 affects expenditure on the provision of plant or machinery for leasing. There is an exception to this general rule if plant or machinery provided for leasing under an excluded lease of background plant or machinery for a building.

Section 70R CAA 2001 covers what is meant by an excluded lease. This mentions where plant or machinery is affixed to, or otherwise installed in or on, any land which consists of or includes a building. It is however necessary to confirm that none of the disqualifications in Section 70S CAA 2001 apply. These disqualifications largely concern lease arrangements where the amounts payable vary or may be varied by the lessor. There is also an anti-avoidance provision to cover a scenario where the main purpose, or one of the main purposes of the lease arrangement, is to secure capital allowances.

The special rules for background plant or machinery for a building should mean that companies which carry out building works should be able to claim full on buildings expenditure that would otherwise be qualifying in either the capital allowances main pool or special rate pool. Where buildings are transferred to a new owner, the use of a Section 198 CAA 2001 election will enable the parties to agree the allocation to the capital allowances pools, which cannot exceed the capital allowances claimed originally by the seller of the building.

Aside from this, there can be other cases where the acquisition of plant and machinery may still qualify full expensing. This would be where the circumstances are more akin to the provision of a service, rather than the simple lease of assets.

The lease restrictions in Section 46 CAA 2001 do not apply to AIA, so if a company cannot claim full expensing it may be able to claim AIA subject to the normal criteria. AIA of course is subject to a £1 million annual limit, which may need to be shared between companies under common control.

Q: How does the lease exclusion work where a service is provided?

A: HMRC manual CA23115 explains how HMRC changed its view on the lease exclusion in Section 46 CAA 2001 following the case of Baldwins Industrial Services PLC and Barr Ltd. [2002] EWHC 2915 (TCC). That case concerned crane hire and recognised the importance of the operator in terms of providing a service over and above the simple hiring of plant.

Following HMRC's new interpretation, where plant and machinery is leased with an operator, this should be considered to be the provision of a service rather than the mere leasing of plant and machinery. HMRC manual CA23115 also states that the provision of building access services by the scaffolding industry should amount to a construction operation and more than mere hire, although this approach would not apply to businesses that simply supply scaffolding poles for use by others.

Each case will be assessed on its own merits, therefore it will be necessary for tax practitioners to consider all the circumstances before forming a conclusion on whether the principles of the Baldwins case are relevant.

Q: How does Full Expensing work when an asset is disposed?

A: 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 be reduced accordingly.

IESBA revises Code of Ethics to respond to transformative effects of technology

At a time when there is much discussion about the use of artificial intelligence the International Ethics Standards Board for Accountants (IESBA) has issued revisions to the International Code of Ethics for Professional Accountants (including International Independence Standards) to respond to the impact of rapid technological advancements and accelerating digitalisation. The revisions refer to the generic term "technology" to help future proof their relevance.

However, considerable outreach was performed in the development of the proposals to ensure that the ethics and independence implications of technologies such as robotic process automation, and artificial intelligence for professional accountants were considered.

The revisions:

- strengthen the code in guiding the mindset and behaviour of professional accountant (PA)s when using any technology.
- provide enhanced guidance fit for the digital age in relation to the fundamental principles of confidentiality, and professional competence and due care, as well as in dealing with circumstances of complexity.

- address the circumstances in which firms and network firms may or may not provide a technology-related non-assurance service to an audit or assurance client.

The revisions to the international independence standards take effect for audits and reviews of financial statements for periods beginning on or after 15 December 2024. Those to the ethics provisions of the code take effect as of 15 December 2024.

ICAS will be updating its Code of Ethics to reflect these and other changes to the IESBA code in due course. The Financial Reporting Council will also be considering the impact of the independence revisions on its Ethical Standard. References to the IESBA code below are to the version which will take effect on the above date.

Some of the key changes are as follows:

Confidentiality

The changes to the IESBA code include a definition of 'confidential information' which is 'Any information, data or other material in whatever form or medium (including written, electronic, visual or oral) that is not publicly available.' Furthermore, it is highlighted that maintaining the confidentiality of information acquired in the course of professional and business relationships involves the PA taking appropriate action to protect the confidentiality of such information in the course of its collection, use, transfer, storage or retention, dissemination and lawful destruction.

Application material has been included to provide examples of circumstances where a PA might seek authorisation to use or disclose confidential information. For certain matters, the authorisation could be of a general nature e.g. as found in some contracts signed between firms and their clients that permit the use of confidential information acquired in the course of a professional activity for the purposes of the firm's internal training or other quality enhancement initiatives.

The reference to "internal training" is intended to encompass the training of both internal AI systems and staff in either a firm or an employing organisation. In more specific circumstances where a PA seeks authorisation to use or disclose confidential information the revisions:

- Set out what a PA might communicate when seeking the authorisation, preferably in writing.
- Specify that such authorisation should be sought from the individual or entity that provided the confidential information.

Complex circumstances

The revisions recognise that professional judgment exercised by PAs might need to take into account the complexity of the circumstances that they face. Although complex circumstances have always existed and are not a new phenomenon specific to technology, rapid digitalisation has increased the interconnectedness of social, economic, legal and geopolitical systems, and is a complex circumstance that PAs are now facing. In this regard, the guidance included should not be restricted to technology-specific complex circumstances.

The revisions highlight that managing complexity involves:

- Making the firm or employing organization and, if appropriate, relevant stakeholders aware of the inherent uncertainties or difficulties arising from the facts and circumstances
- Being alert to any developments or changes in the facts and circumstances and assessing whether they might impact any judgments the accountant has made.

It might also involve other matters, including:

- Analysing and investigating as relevant, any uncertain elements, the variables and assumptions and how they are connected or interdependent.
- Using technology to analyse relevant data to inform the PA's judgment.
- Consulting with others, including experts, to ensure appropriate challenge and additional input as part of the evaluation process.

Identifying threats

The code revisions highlight facts and circumstances relating to the use of technology that might create threats for a PA when undertaking a professional activity. These include the self-interest threat that a PA might not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended. A self-review threat is created where the technology was designed or developed using the knowledge, expertise or judgement of the accountant or employing organisation/firm.

Preparing and presenting information

When preparing or presenting information, a PA who intends to use the output of technology whether internally or externally developed is required to exercise professional judgement to determine the appropriate steps to take, if any, to guard against matters such as bias or being associated with misleading information. Factors to consider include:

- the nature of the activity to be performed by the technology.
- the expected use of, or extent of reliance on, the output of the technology.
- whether the PA has the ability, or has access to an expert with the ability, to understand, use and explain the technology and its appropriateness for the purpose intended.
- whether the technology used has been appropriately tested and evaluated for the purpose intended.
- prior experience with the technology and whether its use for specific purposes is generally accepted.
- the employing organization's/firm's oversight of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the technology.
- the controls relating to the use of the technology, including procedures for authorising user access to the technology and overseeing such use.
- the appropriateness of the inputs to the technology, including data and any related decisions, and decisions made by individuals in the course of using the technology.

Whilst ultimately it is the "output of the technology" that a PA will utilise in the delivery of their professional activity or service. in order to be able to use such output, the whole process of making use of the technology is considered within the application material as seen in the above bullets.

Selling, reselling or licensing technology

The revisions also cover situations where a firm or a network firm provides, sells, resells or licenses technology:

a) to an audit client; or
b) to an entity that provides services using such technology to audit clients of the firm or network firm.

Depending on the facts and circumstances, the requirements and application material in the non-assurance services provisions apply. This to cover situations where a firm may provide a non-assurance service via technology.

IT systems services

Providing IT systems services to an audit client can result in a firm assuming a management responsibility and include:

- Designing or developing hardware or software IT systems.
- Implementing IT systems, including installation, configuration, interfacing, or customization.
- Operating, maintaining, monitoring, updating or upgrading IT systems.
- Collecting or storing data or managing (directly or indirectly) the hosting of data.

Examples of IT systems services that result in the assumption of a management responsibility include where a firm or a network firm:

- Stores data or manages (directly or indirectly) the hosting of data on behalf of the audit client e.g.:
  - Acting as the only access to a financial or non-financial information system of the audit client.
  - Taking custody of or storing the audit client's data or records such that the audit client's data or records are otherwise incomplete.
  - Providing electronic security or back-up services, such as business continuity or a disaster recovery function, for the audit client's data or records.
  - Operating, maintaining, or monitoring the audit client's IT systems, network or website.

However, the collection, receipt, transmission and retention of data provided by an audit client in the course of an audit or to enable the provision of a permissible service to that client does not result in an assumption of management responsibility.

New guidance paper to the ICAS Code of Ethics in relation to objectivity

ICAS has published a new paper - 'Guidance to the ICAS Code of Ethics: Objectivity – Financial interests in, or relationships with, clients'. The paper provides assistance on how to ensure you adhere to the fundamental principle of objectivity when you or your firm have financial interests in and/or relationships (business, family or other personal) with your client.

The paper discusses some factors that you, as a professional accountant, might need to consider when making an assessment. You will also find case studies illustrating how to use the guide in practice.

ICAS Code of Ethics - objectivity

There are five fundamental ethics principles for all professional accountants within the ICAS Code of Ethics: integrity; objectivity; professional competence and due care; confidentiality; and professional behaviour.

The fundamental ethics principle of objectivity requires you "to exercise professional or business judgement without being compromised by:

(i) Bias;
(ii) Conflict of interest; or
(iii) Undue influence of, or undue reliance on, individuals, organisations, technology or other factors."

The Code provides a conceptual framework that you should apply to ensure adherence to the fundamental principles. The conceptual framework highlights that you should:

a) Identify threats to compliance with the fundamental principles;
b) Evaluate the threats identified; and
c) Address the threats by eliminating them or reducing them to an acceptable level by applying safeguards.

The Code also requires professional accountants to have an inquiring mind; to exercise professional judgement; and to apply the 'reasonable and informed third-party test'.

Evaluating and addressing threats to objectivity

There are clear threats to compliance with the fundamental principle of objectivity resulting from a firm or individual having interests in, or relationships with, a client or its directors, officers or employees. You need to carefully consider these threats prior to initiating any interests or relationships. There will only be very limited circumstances when those threats can be addressed.

The existence of threats to objectivity, and the ability of you to eliminate, or reduce the threats to an acceptable level, will depend upon the particular circumstances of the engagement and the nature of the work you're performing.

Some factors that you might consider when making an assessment as to whether adherence to the fundamental ethics principle of objectivity can be met, include the following and each is discussed in more detail in the guidance paper:

- Nature of the services being provided to the client
- Reasonable and informed third-party test
- Materiality
- Duration and frequency of a financial interest
- Capacity in which the professional accountant is acting
- Family, or other personal or business, arrangements
- Safeguards

The guidance paper also contains case studies to provide further assistance.

Ultimately, as a professional accountant you will need to exercise professional judgement depending on the facts and circumstances of each individual engagement. You should always consider the views of a reasonable and informed third-party, and it will be up to you to explain and justify your actions.

Documentation is encouraged throughout the decision-making process so that there is a record of the matters taken into consideration in reaching the judgement and action.

The full guidance or alternatively an "abridged version", which provides an outline of the key points within the full guidance paper, are both available for download.

Payroll Assurance Scheme (PAS) accreditation: adding value to your payroll scheme

Sam O'Sullivan of the Chartered Institute of Payroll Professionals (CIPP) sets out the prestigious CIPP PAS scheme which awards payroll providers a widely recognised gold-standard accreditation clients can trust.

If you want assurance that your payroll team is dedicated to compliance, to know that their processes are robust and that life-long learning and development is planned and encouraged, then the PAS can offer you that confidence.

The PAS is the prestigious gold standard for both people and payroll processes and is the much-coveted award in the payroll industry.

Developed in partnership with HM Revenue and Customs (HMRC), it's the only voluntary accreditation on the market, and the scheme is designed to identify risks to a business, arising from skills gaps or inadequate processes. It's a huge accolade for payroll staff once accreditation has been achieved.

Examining over 60 facets of the payroll operation, the scheme is consistently evolving with the help of the CIPP's policy and research team, who are at the forefront of any changes to the payroll industry. So, you can be assured you are gaining a high-quality, much sought-after accreditation.

What is involved during the PAS assessment?

Module one - your processes

- It checks whether appropriate controls are in place to reduce the potential for payroll errors and checks that all payroll processes are fit for purpose.
- Ensures suitable processes are in place for preparing for legislative and organisational changes.
- The scheme will also highlight areas for development and improvement.
- The process features multiple structured in-depth questions and document checks on your payroll and associated processes.

Module two - your people

- Diagnosis of skills levels, and learning and development needs.
- Review of appraisals and objectives that link into the organisation's overall mission and vision.
- The scheme measures whether learning and development undertaken have been effective to encourage life-long learning.

What does PAS assessment not involve?

The scheme is focussed on checking your payroll processes and knowledge development, to promote compliance. Therefore the scheme doesn't:

- Validate transactions, calculations or returns.
- Spot check payslips.
- Focus on departments outside of the payroll process, however, it does look at interactions between them.

Why is it important to your business?

With UK payroll services accounting for up to £12 billion in payroll fraud, the CIPP's PAS offers peace of mind to all who work within the industry or are seeking payroll services.

- Use of the CIPP's PAS accreditation logo on your organisation's communications and marketing materials demonstrates to employees, customers and suppliers that your organisation is dedicated to compliance and best practice.
- The scheme demonstrates to staff that the company is dedicated to life-long learning and development, therefore increasing staff motivation and improvements in productivity.
- The CIPP's PAS offers clear evidence to customers that compliance is key.
- Improvements in processes lead to greater effectiveness and efficiencies within the payroll function, in turn leading to overall time and cost savings for the organisation.
- Improved service levels to colleagues (in-house payroll) or customers (managed service providers).

What does it mean if an employer or supplier has the accreditation?

It means:

- The organisation is dedicated to compliance and best practice in payroll.
- The payroll and associated processes have been measured by the CIPP and found to be fit for purpose at the time of assessment.
- The organisation has suitable processes in place for preparing and delivering legislative changes.
- Necessary areas for development and improvement are highlighted and have been actioned.
- Better engagement and retention of staff due to better management of the payroll function.
- The organisation is dedicated to life-long learning and development.
- The organisation has shown openness and mitigated the risk of compliance failures by opting to engage in PAS which is, ultimately, a best practice tool and a voluntary assessment.

PAS from HMRC's perspective

HMRC's line: *"It is important that employers can demonstrate that they have taken reasonable care and we encourage them to review their processes to satisfy themselves that they can meet this standard, so we welcome initiatives by your Institute & others in supporting employers and payroll agents in this regard".*

David Gauke MP: "*I'm pleased to say CIPP have also been hard at work making the lives of employers easier. Their new Payroll Assurance Scheme should help employers ensure their payroll returns are accurate and complete. I wholeheartedly welcome initiatives of this kind in supporting employers, and by extension HMRC, in the payroll process."*

For more information on PAS, visit their website.

Payroll Assurance Scheme (PAS) Accreditation | CIPP

'Smarter regulations' non-financial reporting review

The UK government's Department for Business and Trade (DBT), working with the Financial Reporting Council (FRC), is conducting a 'Smarter regulation' non-financial reporting review of the requirements placed on UK companies.

As part of this review, DBT has launched a call for evidence on:

- the UK Companies Act 2006 annual report requirements, as set out in part 15 of the Act.
- company and limited liability partnerships (LLP) size thresholds which determine both the financial, non-financial reporting and filling requirements that companies and LLPs must comply with.
- other non-financial reporting requirements which sit outside the annual report requirements, including gender pay gap and modern slavery reporting.

Primarily, DBT is interested in stakeholder views on the costs and benefits of current non-financial reporting requirements and opportunities to streamline the existing reporting requirements. One of the major issues is the myriad of different reporting thresholds that are used for different reporting requirements.

In addition, by considering size thresholds which determine financial reporting requirements, the review's outcome could also impact on an entity's accounts preparation requirements and the audit exemption threshold. The applicable size criteria have not been revised since the EU Accounting Directive was introduced into UK legislation for accounting periods commencing on or after 1 January 2016.

It is worth noting that the Economic Crime and Corporate Transparency Bill is at the final amendments stage. This Bill proposes the removal of the ability of small companies, including micro-entities, to prepare abridged accounts for members and to file filleted accounts with Companies House.

We anticipate that DBT will consult on detailed proposals for reform following consideration of the evidence gathered by this call. The call for evidence has a deadline of 12 August.

ICAS webinars

Employment Law & Taxes update

Date: Thursday 17 August

Time: 11am – 12noon

Speakers:

- Justine Riccomini, Head of Tax (Employment & devolved Taxes), ICAS
- Dawn Dickson, Employment Lawyer Partner

Summary: Join our essential roundup of the latest employment law issues and employment tax matters. Don't miss this fantastic opportunity to develop your knowledge and connect with fellow ICAS members.

- Current thorny issues in the employment law space for you to discuss with your clients
- The employment tax issues which dovetail in with these legal points which you and your clients need to be aware of

Talking Charity: what's new in financial reporting

Date: Wednesday 13 September

Time: 11am – 12noon

Speakers:

- Keith Macpherson, Audit Partner, Henderson Loggie.
- Kelly Adams, Audit Partner, Head of Not-for-profit in Scotland, RSM UK.

Summary: This webinar will provide the opportunity to hear about the latest developments in charity financial reporting in advance of anticipated changes to FRS 102 and the Charities SORP. The webinar will also explore how recent key changes to auditing standards are impacting on the work of charity auditors and provide insights into how charities can conduct a successful audit tendering exercise.

HMRC and Companies House updates

HMRC taskforce and agent reporting process to tackle old post

HMRC has set up a dedicated taskforce to tackle old post, starting from Monday 10 July, and agents can now report post over 12 months old so that it can be identified and processed. They aim to significantly reduce the number of outstanding cases over the next few months.

Agents can use the agents' issue resolution service online form to identify and progress post over 12 months old.

Poor HMRC service levels have been a concern for some time. We work with other professional bodies to raise issues reported by our members with HMRC and press for improvements. We've been working with HMRC to discuss how we can collectively help to reduce post that is over 12 months old.

HMRC has apologised for the impact this is having on customers, including tax agents and their clients. They're continuing work to respond more quickly to post but know there is more work they need to do on the small proportion of older post still waiting for a response.

How the agents' issue resolution service process will work

The core purpose of the Agent Account Manager team (AAM), which is to help agents resolve issues, will remain but it will now also be responsible for resolving post over 12 months old where HMRC has not responded.

Agents should use the form to identify items of post over 12 months old they believe have not been responded to. HMRC asks that you complete the 'Reason' box showing Agents 12 month + Post Trial, before entering any additional text into the box, so the team can identify the trial cases. HMRC will need the following information:

- Client's name.
- Date of post item.
- Customer reference.
- Agent code.
- Agent name.
- Agent's phone number.
- Which tax regime the post relates to.

Agents using the online form will receive an automatic response acknowledging receipt. HMRC will then contact you within five working days to confirm that the reported post has been identified and respond more fully in 15 working days.

As this is a trial, HMRC won't publish these changes on GOV.UK at this time.

HMRC have asked us to remind you not to use the AAM service to highlight issues that are being handled by other parts of HMRC including:

- Cases where we've already replied to an agent – for example - a request for additional information.
- Formal complaints - unless there is associated post over 12 months old without a response.
- Compliance checks - unless there is associated post over 12 months old without a response.
- Appeals against HMRC decisions.
- Post under 12 months old.

Next steps

HMRC will monitor the adapted service and review how it's working on Friday 4 August. If the mailbox has been successful, they'll extend the trial for a further period and let us know how long this is likely to be for.

Tell us about your experience

We would welcome any feedback from members on this HMRC initiative; email us to let us know how it works in practice.

More generally, 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. We welcome input from members to inform our work; email us to share your insights and feedback.

VAT registration – improving the service

From 22 May 2023, HMRC closed the VAT registration helpline so that their advisors time could be used more effectively to process applications.

HMRC took this decision as over 85% of calls to the VAT registration helpline were from customers who want an update on their applications.

HMRC are committed to replying to customers within 40 days of submitting their applications. HMRC have asked customers not to contact HMRC within the first 40 days to chase, but following the 40 days, customers can check the progress of their application by using the dedicated email inbox: vrs.newregistrations@hmrc.gov.uk

Customers who have not received a response to their application within 40 days, will receive a reply to their email within 5 working days. They will not respond to the email if the application has already been dealt with.

Self-serve Time to Pay for VAT customers

HMRC is providing a new service to help make it easier for VAT customers to pay what they owe.

Where customers are unable to pay their VAT in full, they may be able to set up a Time to Pay arrangement by paying in monthly instalments (if they meet certain eligibility criteria), without needing to call HMRC.

Eligibility criteria:

- be a VAT customer
- have VAT debt which is less than 28 days old from the payment due date
- have VAT debt which is less than £20k in value
- not have any other debts or TTP payment plans
- be up to date with all tax returns
- be authorised to set up a direct debit mandate.

HMRC are encouraging customers to use their digital channels to reduce calls to their helplines.

Anti-Money Laundering Supervision videos

HMRC has launched new Anti-Money Laundering Supervision video guides which cover:

1. Risk assessments for anti-money laundering supervision
2. How to keep records for anti-money laundering supervision
3. Identifying and reporting suspicious activity for anti-money laundering supervision
4. Training your employees to comply with money laundering regulations

Accessing the Income Record Viewer

The quickest and easiest way to check clients pay, tax details, employment history and pension information is by using the Income Record Viewer.

You need an agent services account to use Income Record Viewer. You must also get your client's consent using the digital services to access their information.

The Income Record Viewer provides instant and secure access to a wealth of information about your client which includes:

- PAYE information for the current year plus the 4 previous tax years
- employment records, including time in employment, their PAYE reference, the pay and tax details for each of their employment
- student loan repayments, if any, collected through payroll
- latest tax code for the current tax year including all allowances and deductions
- taxable benefits provided by an employer such as company car and medical insurance and whether these are forecasted (P11D not received yet) or actual (P11D received)
- state and private pension information
- details of any underpaid tax and other debts such as tax credits or Class 2 National insurance contributions collected through their tax code.

Deadline to fill gaps in National Insurance record extended

The deadline for eligible taxpayers to fill gaps in their National Insurance records for the tax years 2006 onwards has been extended to 5 April 2025.

This means that men born after 5 April 1951, or women born after 5 April 1953, have more time to check their records and decide whether to pay voluntary contributions to make up for gaps in their National Insurance record.

R&D tax relief reform – date change

New claim notification and additional information requirements will not be enforced until 8 August 2023.

Originally due to come into effect on 1 August 2023, 'The relief for research and development (content of claim notifications, additional information requirements and miscellaneous amendments) regulations 2023' will now be laid a week later than expected due to delays in Finance Bill timetabling.

For a reminder of the new requirements, read this article.

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