

Tax Update

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1. General

1.1 Autumn Budget 2024

The Chancellor delivered the Autumn Budget 2024, the first fiscal event of the new Labour Government, on Wednesday 30 October. This included several major changes, such as an increase in employers' NICs and changes to IHT reliefs.

Key announcements include:

- Capital gains tax rates rising with immediate effect to match the current rates on residential property (18% and 24%)
- Agricultural and business property reliefs reformed - 100% relief to continue for up to £1million of combined assets, 50% relief above this threshold, resulting in IHT at 20% above threshold
- Business property relief reduced to 50% relief for AIM shares, with no corresponding threshold
- Pension pots coming within the scope of inheritance tax from April 2027
- Capital gains tax on carried interest rising from 28% to 32% from April 2025 with wider reform from April 2026
- Capital gains tax rate for gains subject to business asset disposal relief to rise gradually from 10% to 18% from April 2026
- SDLT surcharge on purchases of additional residential property rising from 3% to 5% from 31 October 2024
- Increase in employer national insurance contributions from 13.8% to 15% and reduction in threshold at which it is payable to £5,000 from April 2025
- Increase in the Employment Allowance to £10,500 from April 2025
- No changes to corporation tax rate, full expensing relief and annual investment allowances
- Corporate tax road map published setting out a key theme of stability and areas for consultation. No significant changes trailed
- Commitment to explore capital allowances for pre-development costs to encourage renewable energy and major infrastructure projects
- List of priority areas for business rates reform published
- Further consultation on transfer pricing including removal of exemption for medium-sized businesses

The Finance Bill 2024-25 was published on 7 November.

You can read our full coverage and analysis on our website Budget hub at the link below.

www.evelyn.com/budget/your-personal-wealth/

1.2 HMRC interest rates to be cut

HMRC yearly interest rates on overdue tax will decrease by 0.25%, following the Bank of England base rate cut from 5% to 4.75%.

The rate applied to the main taxes will become 7.25%. The rate of interest on repayments from HMRC will become 3.75%.

This change applies from 18 November for quarterly instalment payments and 26 November for non-quarterly instalment payments.

It was announced at the Budget that the Government will add 1.5% to the late payment interest rate from 6 April 2025.

www.gov.uk/government/news/hmrc-late-payment-interest-rates-to-be-revised-after-bank-of-england-lowers-base-rate

1.3 HMRC spotlight on GDPR

HMRC has published another in its 'spotlight' series where it draws attention to tax arrangements being promoted that it believes are potentially ineffective.

HMRC has identified an issue where some agents advise companies to include a provision in their accounts against the risk of breaching GDPR. It has been suggested this provision reduces the CT bill or can create a repayment, and has also been linked

to increasing R&D tax credits. HMRC has issued a notice explaining the criteria a provision must meet to be deductible, and how these provisions do not in its view qualify.

www.gov.uk/guidance/general-data-protection-regulation-gdpr-provision-used-to-reduce-tax-liability-spotlight-65

www.icaew.com/insights/tax-news/2024/oct-2024/hmrc-turns-the-spotlight-on-gdpr-provisions

2. Private client

2.1 New checker tool for MTD

HMRC has launched a tool for taxpayers to check if they are in scope for MTD (making tax digital) for income tax.

The tool asks various questions and gives a result as to whether the taxpayer will be in scope, not in scope, or eligible to apply for an exemption. While it cannot provide a definite result, HMRC believes that, for most taxpayers, it will provide a strong indication of their MTD obligations in 2026/27 and 2027/28.

www.att.org.uk/technical/news/mtd-hmrc-launch-new-interactive-checker-tool

2.2 UT agrees that interim dividend was taxable on receipt

The UT has upheld an FTT decision that an interim dividend paid at different times to two shareholders for tax reasons was taxable on each at the date received. HMRC had sought to argue that both should be taxed when the first was paid based on rules for equal treatment of shareholders.

Two brothers wished to extract a dividend from a company but in different tax years. One brother was non-UK resident in the year following receipt of the dividend by the other and therefore wished to delay receipt until after April 5. On advice, the directors were authorised to pay an interim dividend in accordance with these wishes. HMRC sought to tax the latter dividend at the earlier date and the taxpayer appealed.

A final dividend is usually taxable once declared by the company in a general meeting, because such a declaration creates an enforceable right for the shareholder. By contrast, there is generally no enforceable right to an interim dividend before payment and thus it is only taxable on actual payment.

At the FTT, HMRC accepted that this was the general rule, but proposed that the shareholder who had not been paid on the occasion of the first distribution would have an enforceable claim for unfair prejudice against the company and thus the right to receive the dividend, making it taxable in the earlier year. The FTT found for the taxpayer, noting that the court remedy was discretionary and it was by no means certain, in the circumstances, that it would have ordered payment, if it was available at all. Therefore the taxpayer had no enforceable debt until payment and this later distribution to him was taxable on receipt.

HMRC appealed to the UT, arguing that the FTT had erred in law in finding that no debt was owed to a second shareholder of the same class when a payment is made to the first, that the discussions had varied the articles of association, and that these had formed a binding contract whereby the second shareholder waived his right to be paid a dividend at the same time as the first.

The UT considered the FTT findings in detail. It found that the FTT had erred in law on the first point, as the debt was owed to the second shareholder, but as it found for the taxpayer on the points around the discussions forming a contract then this did not alter the outcome. HMRC's appeal was dismissed.

Gould v HMRC [2024] UKUT 00285 (TCC)

www.gov.uk/tax-and-chancery-tribunal-decisions/the-commissioners-for-his-majestys-revenue-and-customs-v-peter-gould-2024-ukut-00285-tcc

2.3 IFS report on CGT

The IFS has published a report outlining what it believes to be the current problems with CGT, and how the tax should be reformed.

The report provides detail on how much tax is currently raised by CGT, and how increases could affect this.

The key recommendation is that marginal tax rates should be aligned across all types of income and gains, along with reform of the tax base.

Other recommendations include:

- Giving full deductions for money saved or invested
- Giving more flexibility around losses
- Ending the CGT uplift on death
- Removing business asset disposal relief, while adding more generous deductions for investment costs
- Taxing individuals leaving the UK on accrued unrealised gains. Exempting those moving to the UK from UK CGT on gains they accrued while living abroad

<https://ifs.org.uk/publications/capital-gains-tax-reform>

2.4 ABAB tax survey receives record number of responses

The Administrative Burdens Advisory Board (ABAB) has completed its annual survey to ensure that HMRC is meeting the needs of small businesses.

This year, over 10,000 responses were received from businesses and agents. The findings have been fed back to the Exchequer Secretary to the Treasury. Several areas were surveyed including time to pay, basis period reform and off payroll working but the main areas of interest are making tax digital (MTD) and HMRC engagement.

With MTD coming into effect from 6 April 2026, only 33.3% of respondents describe themselves as being aware of the changes. 64.6% stated that they believed MTD would have no benefit to their business or clients and that digital record keeping would increase costs. The ICAEW has asked HMRC to remove the quarterly reporting requirements.

On HMRC engagement, there was a 20% increase in respondents who rated HMRC's webchat and telephony services and helpline response times as poor.

www.icaew.com/insights/tax-news/2024/oct-2024/record-number-respond-to-abab-tax-survey?utm_campaign=Members%20-%20ICAEW&utm_medium=email&utm_source=2811432_Faculties_TAXnewswire_02Oct24_CC&utm_content=Record%20number%20respond%20to%20ABAB%20tax%20survey%20-%20img&dm_i=47WY.109BC.368JB1.7VB8U.1

2.5 HMRC will require evidence of PAYE employment expenses

HMRC is updating its processes to reduce incorrect expense claims.

From 14 October 2024, HMRC will require taxpayers who want to claim PAYE employment expenses to use a P87 form and provide supporting evidence before processing their claim.

www.tax.org.uk/evidence-required-to-claim-payee-employment-expenses

www.gov.uk/government/publications/hmrc-issue-briefing-evidence-required-to-claim-payee-p87-employment-expenses

2.6 Information notice upheld

HMRC issued an information notice to a taxpayer that it believed had entered into arrangements with her employer designed to reduce income tax on her earnings. The information requested included details of the terms of employment and how earnings were to be paid, payments received in connection with the employment, intermediaries through which the individuals provided services, contracts, and copies of payslips and bank statements.

The taxpayer challenged the notice on several grounds, including that the documents were not reasonably required because there was no "sensible or reasonable possibility of HMRC imposing any liability to pay tax". She also stated that that some

documents would be more properly obtained from her employer, and that documents for the then current tax year were included, which was not yet subject to an enquiry.

The FTT upheld the notice. HMRC had reasonable concerns about the arrangements, and as the taxpayer was responsible for her own tax position then documents could be requested from her, regardless of which years were under enquiry. The time allowed was reasonable, and the information required not unduly onerous, as it was reasonable to expect that an individual would keep a copy of documents like an employment contract and terms agreed.

Simpkins v HMRC [2024] UKFTT 924 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09320.html

2.7 LLP wins appeal on status of business

The FTT has found that arrangements entered into by an LLP to reduce tax were effective, as the LLP was carrying on a business. A policy paper published alongside the Autumn Budget means that these arrangements would not be effective if used again.

A family group planned to sell shares in a PLC (T) as part of a takeover. These were held in a company and family trusts. This was done by exchanging the T shares for loan notes and cash. An LLP was previously incorporated, which bought and sold some other shares. The company and a nominee for the trusts were made LLP members. These members then sold their loan notes to the LLP at a slight discount. A condition of this sale was that the LLP would sign a Deed of Variation giving the company a charge over the loan notes. The LLP was then liquidated, and the loan notes were redeemed. The ultimate result was that the loan notes contributed by the LLP members did not trigger a CGT charge if the LLP was trading or carrying on a business with a view to profit, but that as the base cost was taken into account on liquidation of the LLP when computing tax liabilities then the capital gain on the original disposal of T shares was wiped out. The arrangements were notified under DOTAS, but accepted as working.

HMRC challenged the arrangements on the basis that the LLP was not trading. The FTT found that that was correct, but that as it was carrying on a business then the arrangements still worked and the assessments were reduced to nil. The tribunal examined decisions in other areas of tax to reach this conclusion, as there is little case law on when an LLP is carrying on a business. In this case the other shares purchased when the LLP was set up were sold for a profit, so although activities were limited the business of dealing in shares had been carried out.

GCH Corporation Ltd & Ors v HMRC [2024] UKFTT 922 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09318.html

www.gov.uk/government/publications/capital-gains-tax-limited-liability-partnership-liquidations

3. Trusts, estates and IHT

3.1 UT agrees that trustees liable for exit tax despite EU law

The UT has upheld an FTT finding that an exit charge could be applied despite being incompatible with EU law, but modifying the application to allow payment by instalments.

Four trusts were created by the settlor in 1992 and the trustees were at the time all UK resident. In 2004, three new trustees were appointed, all resident in Cyprus. Only one original UK trustee remained, and at this point the trust ceased to be UK resident. The trustees were therefore deemed to have disposed of all their assets, namely shares, and CGT became payable accordingly. While this disposal was noted on the relevant tax return, the liability was not reported, and no tax was paid as the trustees claimed that the UK provisions imposing the liability were in breach of EU law.

The case was considered by the CJEU, who found that an exit charge on a migrating trust was incompatible with the principle of freedom of establishment, but only to the extent that immediate payment was required. This was the case even though the shares in question had in fact been sold before the due date for payment of the exit charge.

The case was referred back to the FTT, which in 2019 found that the breach of EU law was capable of remedy by a conforming interpretation. Payment by installments was chosen as the most compatible with UK legislation.

The UT agreed with the FTT. It was not the exit tax in and of itself that did not comply with EU law, but the lack of a provision in UK law to defer payment of the tax. This could be remedied by the deferment suggested by the FTT, despite the lack of a provision for it in the legislation.

Trustees of the Panico Panayi Accumulation and Maintenance Settlements Numbers 1 to 4 & Anor v HMRC [2024] UKUT 319 (TCC)
www.bailii.org/uk/cases/UKUT/TCC/2024/319.html

3.2 Business relief not available on furnished offices

The FTT has found that serviced offices were still an investment, not carrying out a trading activity. The decision involved a careful analysis of the exact activities, as well as case law, but ultimately determined that business property relief (BPR) was not available.

The late taxpayer held shares in a company (F), that owned the entire share capital of another company (N), whose main asset was an office block. From 2008, after tenants left, two of the six floors were let as serviced offices, while the others remained on commercial leases. From 2010 another two floors also became serviced. N contracted the servicing to another company, (O). The executors contended that the shares in F were eligible for BPR as this provision of serviced offices was a trading activity, not investment.

The FTT considered the detail of the operations, and case law, and ultimately found that BPR was not available. O had provided considerable services, including a receptionist and cleaning, but a number of these were covered by an extra facility fee, not just the standard serviced office fees. The services included in the normal fee, such as heating and maintaining equipment, predominantly related to maintaining the investment in the land. The executors' appeal was dismissed.

As the judge here was keen to point out, although decisions in other cases can be a useful guide, ultimately the eligibility of relief is a matter of fact to be considered afresh in each individual appeal. Here the company provided serviced office space in a central London building. After an extensive review of the facts the FTT came down on the investment side of the line and refused the claim to BPR which had been made by the executors of the deceased.

The FTT accepted that this was not a clear-cut case but based its decision on its conclusion that *'what is being provided is physical space in a building with some desirable additional services, but not such a level of services as to mean that the principal transaction is the exchange of services for reward.'*

This case could have gone either way and given the amounts involved an appeal cannot be ruled out. Much of the case law discussed in the decision will be familiar territory for all involved in IHT matters, but it is always useful to be reminded of the sometimes quite narrow points on which the availability of relief, which is on an all or nothing basis, can depend.

Beresford v HMRC [2024] UKFTT 952 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09333.html

4. Business tax

4.1 LLP and corporate members related for amortisation rules

The UT has upheld the FTT decision that a Limited Liability Partnership (LLP) is related to its corporate members even though it is not a company. As a result, relief for amortisation for assets acquired from those companies was denied.

The case revolved around the deductibility of amortisation for intangible assets acquired by the LLP from its corporate members. The key issue was whether the LLP and its corporate members were considered "related parties".

Where a partnership has one or more corporate members (as was the case here) its profits are to be computed as if the LLP's trade was carried on by a company. The LLP argued that this deeming provision only extended to the calculation of profits and did not extend to making assumptions about the ownership structure too. The related parties rules could not therefore apply to prohibit relief for amortisation.

The UT upheld the FTT decision, applying a purposive approach stating that they did not believe that Parliament could have intended for the outcome being argued for by the taxpayer. The LLP and its corporate members were related parties and so the amortisation was not deductible.

Muller UK and Ireland Group LLP v HM Revenue & Customs [2024] UKUT 273 (TCC)

www.bailii.org/uk/cases/UKUT/TCC/2024/273.html

4.2 HMRC one to many letters – discrepancies in corporation tax losses

HMRC is sending out a small number of letters to companies whose losses reported on their CT600 return differed from the accompanying tax computations.

HMRC has sent letters to a number of companies whose reported losses on their CT600 return differ from those included in the accompanying tax computations. Taxpayers are advised that HMRC will rely on the figures included in the tax computation and that no action needs to be taken. If the taxpayer does not agree with this approach they must contact HMRC within 60 days.

www.tax.org.uk/hmrc-one-to-many-letter-corporation-tax-losses-discrepancies-between-ct600-and-computations

4.3 New patent box guidelines for compliance published by HMRC

HMRC issues new Patent Box compliance guidelines setting out what it considers best practice.

HMRC has published a new set of guidelines aimed at helping businesses with Patent Box claims. The guidelines set out what HMRC considers to be best practice and how to avoid common errors.

The guidelines cover who can benefit from the Patent Box regime, a recommended approach to computations, avoiding common errors, record keeping and what information to include in the return.

[Help with Patent Box computations — GfC9 - GOV.UK](http://Help%20with%20Patent%20Box%20computations%20-%20GfC9%20-%20GOV.UK)

4.4 Nudge letters on rollover relief claims

HMRC is sending nudge letters regarding provisional rollover claims where taxpayers are nearly out of time to make full claims. A response is required or HMRC will assume the provisional claim is not valid and will issue an assessment.

We have seen several nudge letters that have been issued in error – in these letters the accounting period has been left blank. HMRC has requested that these letters are returned to them with a covering letter explaining that they are not applicable.

5. VAT and Indirect taxes

5.1 New VAT guidelines for compliance published by HMRC

HMRC issues new VAT compliance guidelines setting out what it considers best practice.

HMRC has published a new set of guidelines aimed at helping businesses with VAT compliance controls. The guidelines set out what HMRC considers to be best practice and are aimed at those responsible for the governance, controls, processing and submitting of VAT returns.

The guidelines highlight key areas of a business's operations such as sales, purchases and return preparation and suggest controls that can be put in place to reduce risk, including using Making Tax Digital (MTD) compliant software.

[www.gov.uk/government/publications/help-with-vat-compliance-controls-guidelines-for-compliance-gfc8#:~:text=These%20Guidelines%20for%20Compliance%20\(GfC\)](http://www.gov.uk/government/publications/help-with-vat-compliance-controls-guidelines-for-compliance-gfc8#:~:text=These%20Guidelines%20for%20Compliance%20(GfC))

5.2 HMRC issues 'nudge letters' on waste crime

HMRC has issued 'nudge letters' to businesses asking them to review their waste management processes.

HMRC has been contacting businesses asking them to review their waste management processes, warning that organised crime groups are operating in this sector and highlighting steps businesses can take to protect themselves.

The letters are part of a wider multi-agency campaign including an educational webinar hosted by HMRC and the Environment Agency.

<https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/a0365b20-b6f6-46b7-b41c-672e40c0d5d2/FRAUD%20ALERT.pdf>

6. Tax publications and webinars

6.1 Tax publications

The following Tax publications have been published.

- [Scaling a tech business? Key changes to R&D tax reliefs you should know](#)
- [A pro-growth Budget wishlist from our tax experts](#)
- [Employer NIC rise Autumn Budget 2024](#)
- [Waste crime: a growing concern](#)

6.2 Webinars

The following client webinars are coming up soon.

- 21 November – [Editions by Evelyn Partners: Expected changes to the taxation of real estate in the UK and the US](#)

7. And finally

7.1 Interesting

Perhaps one of the lesser-spotted items in the Budget was 5.27 in the red book: a 1.5% per year jump in the interest rate HMRC charges on tax paid late from April 2025. Well, you may think so what? It's an easy target – if HMRC has identified late paid tax already, why not add on a little bit and boost the public finances? The Budget documentation sets out that this will encourage taxpayers to pay tax on time, helping close the tax gap.

We hesitate to celebrate, having seen the situations in which tax debt arises. Yes, there are plenty of cases seen at tribunal where someone has attempted to dodge tax but there are also many where an innocent mistake has led to tax due not being identified until it is late. Further, late payment interest is charged when taxpayers have time to pay arrangements with HMRC, entered into if they are unable to pay tax due. Another common payer of interest is estates – often an estate will not have enough liquid cash to pay the IHT due by the deadline if a property has to be sold. Interest is also applied when a taxpayer spreads an IHT bill over 10 years, as is permitted for land and property.

HMRC is already allowed to charge late payment penalties when tax is overdue by specific time periods. These are appealable, and are often waived if the taxpayer has a reasonable excuse. Late payment interest, by contrast, is almost never cancelled, and there is no statutory right of appeal against it, as it has always been intended less as a punishment and more of a way to compensate HMRC for the delay. Perhaps this is more justifiable at 4% above the base rate than 5.5%?

The repayment interest rate, added on to tax repayments HMRC hasn't returned immediately, is of course not going up.

www.gov.uk/hmrc-internal-manuals/compliance-handbook/ch140300

www.gov.uk/guidance/find-out-how-to-pay-a-debt-to-hmrc-with-a-time-to-pay-arrangement#interest-charged-on-time-to-pay-arrangements

www.gov.uk/paying-inheritance-tax/yearly-instalments

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

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Tax legislation is that prevailing at the time, is subject to change without notice and depends on individual circumstances. You should always seek appropriate tax advice before making decisions. Tax legislation as at November 2024.

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