

# Tax Update

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## 1. General

### 1.1 "Spring Forecast" scheduled for 26 March

*The Office for Budget Responsibility (OBR) has been asked to produce forecasts, which will be presented to Parliament alongside a statement from the Chancellor on Wednesday 26 March.*

The Government has stated that it remains committed to only having one major fiscal event a year, so we are not expecting this statement to include major tax changes. It is a legislative requirement for the OBR to produce two sets of forecasts each financial year.

[www.gov.uk/government/news/chancellor-commissions-spring-forecast-on-26-march-2025](https://www.gov.uk/government/news/chancellor-commissions-spring-forecast-on-26-march-2025)

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## 2. Private client

### 2.1 Late filing penalties upheld

*The taxpayer was issued with late filing penalties amounting to £1,600 relating to his 2020/21 tax return. He appealed, stating that he had not received a notice to file. He had been living abroad, and the tenant at his correspondence address in the UK was supposed to pass on post. He had not anticipated receiving a notice to file, as he had no tax liability and was living abroad.*

The FTT dismissed his appeal. Ignorance of the notice to file was no excuse. He had filed a return for the previous tax year, and could have found out about filing requirements for overseas landlords easily. He had not notified HMRC that he was leaving the UK and ceasing his UK self-employment. It was not reasonable for him to assume that he did not need to file.

*Yaqoobi v HMRC* [2024] UKFTT 1160 (TC)

[www.bailii.org/uk/cases/UKFTT/TC/2024/TC09388.html](http://www.bailii.org/uk/cases/UKFTT/TC/2024/TC09388.html)

### 2.2 Nudge letters on investors' relief

*HMRC's wealthy team has written to a number of taxpayers who claimed investors' relief in their 2023/24 tax returns.*

Two groups have been targeted, those who did not provide enough information about the claim to allow HMRC to assess it, and those that HMRC believes may have claimed the relief incorrectly.

Recipients are asked to check their claims, and make any necessary amendments or provide additional information within 30 days of the date on the letter. The letters include details of the criteria for this relief to apply.

[www.tax.org.uk/one-to-many-letter-investors-relief](http://www.tax.org.uk/one-to-many-letter-investors-relief)

### 2.3 Discovery assessment on undeclared income held offshore

*The FTT has upheld assessments on a taxpayer who moved undeclared income offshore, finding that HMRC had validly raised the assessments and penalties.*

HMRC raised assessments and penalties on a taxpayer who ran a property management business, initially as an individual then incorporated. It alleged that he had not accounted for all his trading income before incorporation, and had then run an off-record trade alongside his company. The taxpayer had claimed that the funds held in his Isle of Man accounts were family money, not from a trade.

Based on the HMRC view that the behaviour was deliberate, the assessments went back 20 years. The figures were based on the amount paid into the IoM accounts, and UK banking records where available, and large deposits thought not to be income were excluded from the calculations. HMRC also assessed him as UK resident based on his known ties to the UK.

The FTT found for HMRC. The taxpayer's principal argument, that the compliance check and conclusions were unfair, was not a matter for the jurisdiction of the tribunal. Looking at the evidence, HMRC had shown that there were deliberate inaccuracies, and raised assessments in accordance with the statutory framework. No reasonable excuse had been provided against the penalties. An officer made a valid discovery and the assessments and penalties were upheld.

*Mayet v HMRC* [2025] UKFTT 52 (TC)

[www.bailii.org/uk/cases/UKFTT/TC/2025/TC09406.html](http://www.bailii.org/uk/cases/UKFTT/TC/2025/TC09406.html)

## 2.4 CA remits salaried member case to the FTT

*The CA has allowed HMRC's appeal on a point in a major salaried member's case, and remitted it back to the FTT for a decision.*

Members of LLPs are generally taxed as self-employed individuals, rather than employees, which can give a significant saving in NICs. The salaried members legislation, introduced in 2014, deems members to be treated as employees for UK tax purposes in some circumstances, generally where their work relationship is similar to an employment relationship.

HMRC issued the taxpayer LLP with PAYE and NIC determinations covering five years, on the grounds that some of its members fell to be salaried members under the legislation. In this case, this only applied where at least 80% of their remuneration was 'disguised salary' (it did not vary with the LLP's profit), and the members did not have significant influence in the LLP.

The FTT examined the day to day running of the LLP, which had an informal approach to management, with reference to the investment portfolio managers whose tax position was disputed. It found that, contrary to HMRC's assertion, an individual did not have to demonstrate significant influence over the LLP as a whole, but just over one or more aspects of the affairs of the LLP. This could include financial influence, based on a large capital contribution. It allowed the LLP's appeal in relation to some members, including the heads of areas in the firm, and those who managed portfolios over a certain size. The others did not have significant influence, and the bonuses paid to all did not vary enough with profit to be anything other than disguised salary.

The UT upheld this decision in full, dismissed an appeal and cross-appeal.

The CA, in contrast, allowed HMRC's appeal in relation to Condition B, that "the members do not have significant influence over the partnership". It found that both tribunals had erred in law in their construction of this condition, and the interpretation had been too wide. In short, it is necessary to determine the 'mutual rights and duties' that the members have, which in this case were found within the LLP Agreement, and whether this enables them to make strategic decisions. The CA remitted the case back to the FTT for a decision on this point, which is favourable to HMRC, however given the amounts of tax at stake, it is considered likely that there will be an appeal to the Supreme Court.

*HMRC v Bluecrest Capital Management (UK) LLP [2025] EWCA Civ 23*

[www.bailii.org/ew/cases/EWCA/Civ/2025/23.html](http://www.bailii.org/ew/cases/EWCA/Civ/2025/23.html)

## 3. Business tax

### 3.1 Capital allowances win on quay wall

*The FTT has found in favour of the taxpayer that a quay wall built as part of a dockside ship to shore crane facility qualified as plant and machinery. Extensive evidence on how its construction facilitated the work was supplied.*

The company spent over £57m in building a 'quay wall'. The dispute was over whether or not this could be considered as plant and machinery for capital allowances purposes.

The premises consisted of a 'berthing pocket', a dredged section of riverbed, a container transition area used to store and handle containers before loading and unloading onto the ships, a number of cranes for moving them, and the quay wall. The cranes move on rails founded on the quay wall. Only the treatment of the quay wall was in dispute.

The company supplied evidence about the construction and use of the quay wall. It was particularly designed to take the weight of the very heavy loaded cranes, and remain stable when they are subject to high winds. It was designed to remain level, as shifts in the rails would render them inoperable. It also had a strong mooring system, with cabling and anchor points, and its height was designed to be suitable for the ships to moor. The company explained how the choice of materials used and the design features supported these requirements. It also functioned to prevent the reclaimed land on which the containers were stored from returning to the sea.

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The FTT held that the expenditure on the quay wall was on a distinct asset and incurred on the provision of plant or machinery. It rejected HMRC's contention that this was just a specialised structure, and drew comparisons with a dry dock case. The company's appeal was allowed.

*The Mersey Docks and Harbour Company Ltd v HMRC* [2024] UKFTT 1163 (TC)

[www.bailii.org/uk/cases/UKFTT/TC/2024/TC09391.html](http://www.bailii.org/uk/cases/UKFTT/TC/2024/TC09391.html)

### 3.2 CA decision on tax treatment of penalties

*The CA has ruled that redress payments made to customers following an investigation by a regulatory body were not fines or penalties. There is, therefore, no legal foundation to prevent their deduction.*

The taxpayer was investigated by Ofgem for mis-selling, complaints handling, and cost transparency. The company was fined a nominal £1 and agreed to pay £28m in redress to affected customers. The taxpayer sought tax relief for these payments as business expenses. HMRC denied the relief, arguing the payments were penalties and under established case law such payments are not deductible.

The FTT had allowed relief for some payments, a decision overturned by the UT who denied relief in full. The CA has now reversed the UT's decision, allowing relief for all payments except the £1 fine. The CA held that the payments were not penalties but were made to settle regulatory investigations, and as such there was no basis in law to prohibit their deduction.

This decision narrows the scope of disallowing expenditure related to penalties and provides important insights into the deductibility of such payments.

*ScottishPower (SCPL) Limited v HM Revenue & Customs* [2025] EWCA Civ3

[www.bailii.org/ew/cases/EWCA/Civ/2025/3.html](http://www.bailii.org/ew/cases/EWCA/Civ/2025/3.html)

### 3.3 OECD publishes update on progress of Pillar One

*The OECD has provided an update on the progress of developing a final package for Pillar One (designed to modernise the international tax system to reflect the digital economy).*

This update highlighted the ongoing negotiations and the remaining open issues related to both Amount A and Amount B in the calculations. Although consensus has not yet been reached, significant progress has been made, and work continues to resolve outstanding issues.

[Pillar One Update from the Co-Chairs of the Inclusive Framework on BEPS](#)

## 4. VAT and Indirect taxes

### 4.1 Higher rates of SDLT due on purchase of former factory

*The taxpayer bought a property known as the Bacon Factory. He argued that part of it was used for non-residential purposes, so the lower SDLT rate for mixed-use properties should apply.*

The property had originally been a factory, and in the 1980s the upper floors were converted to residential use with the ground floor used for light industry. The vendor, who initially rented the upper floors as residential, purchased the whole building. Until the vendor purchased the property and refurbished the entire property in 2019 the ground floor was used for commercial purposes. It was completely renovated. The vendor intended to use the ground floor as a gin distillery, but this did not go ahead for business reasons. This floor was instead used partly as a garage and partly as part of the main home. Later on, the taxpayer's partner used some of the garage area to store materials and do some work for her own business. The property was purchased in by the taxpayer in June 2021 in its current state.

The FTT found for HMRC. Although part of the ground floor was used for commercial purposes at the relevant date, the whole property was either used as a dwelling or suitable for use as a dwelling, so was on the whole residential property.

The main factors considered in the judgment were:

- The lack of separation between the ground floor and the upper floors
- The estate agents description of the property as the ultimate party space
- The garage had been used for storage of business assets but no modification was needed for it to be residential
- Little weight was given to any planning restrictions

*Tretyakov v HMRC* [2024] UKFTT 1144 (TC)

[www.bailii.org/uk/cases/UKFTT/TC/2024/TC09385.html](http://www.bailii.org/uk/cases/UKFTT/TC/2024/TC09385.html)

## 4.2 Nudge letters to charities

*HMRC has sent an educational email to a selection of small charities that are registered for VAT.*

This is an awareness raising exercise. The emails explain that these charities are obliged to calculate the portion of their income that is business, and that is non-business, and apportion their input tax claims. Links to guidance are provided.

[www.tax.org.uk/hmrc-one-to-many-vat-email-sent-to-some-charities-regarding-non-business-income](http://www.tax.org.uk/hmrc-one-to-many-vat-email-sent-to-some-charities-regarding-non-business-income)

## 4.3 FTT allows SDLT appeal on annexe

*The taxpayer bought a house and initially paid SDLT as normal, then submitted a reclaim on the basis that multiple dwelling relief was available. HMRC disputed that the annexe was a valid separate dwelling, as there was a shared garden and a door that connected house and annexe, reducing privacy and security.*

The FTT found for the taxpayer that the annexe was a separate dwelling. It had its own front door, and was separately registered for council tax. It had cooking and washing facilities. The connecting door had been blocked with a door brace, and use of the garden could be addressed in a tenancy agreement.

*Johnson v HMRC* [2025] UKFTT 50 (TC)

[www.bailii.org/uk/cases/UKFTT/TC/2025/TC09404.html](http://www.bailii.org/uk/cases/UKFTT/TC/2025/TC09404.html)

# 5. And finally

## 5.1 Nearly there

With only a few days to go until the self-assessment filing deadline of 31 January we hope that most of our readers are sitting back comfortably, happy in the knowledge that they filed their return many months ago. In the event that there is something still outstanding, we wish you the very best of luck, and a relaxing February.

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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