

Tax Update

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1. General

1.1 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 4.75% to 4.5%.

The rate applied to the main taxes will become 7%. The rate of interest on repayments from HMRC will become 3.5%.

This change applies from 17 February for quarterly instalment payments and 25 February 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--2

2. Private client

2.1 CA grants taxpayer's appeal on exceptional circumstances

The CA has found that a taxpayer was non-UK resident, as six excess UK days were due to exceptional circumstances. Her moral obligation to care for a family member met this threshold. This overturned the UT decision and reverted to the FTT decision.

The taxpayer moved to Ireland on 4 April 2015. In the 2015/16 tax year she received dividends on which over £3m of IT would have been due had she remained UK resident. In that tax year, she had to spend 45 or fewer days in the UK to be non-UK resident, but in fact spent 50 days in the UK. She argued that 5 of these days should be discounted, as she had visited the UK in December and February of that year to support her twin sister, who was experiencing serious ill health, and to assist in the care of her twin's children.

The FTT found that she was non-UK resident as this qualified as exceptional circumstances. It accepted that she was the only person able to assist her twin sister at the time, and was under a moral obligation to come.

The UT differed, allowing HMRC's appeal as it found that moral obligations are not themselves exceptional circumstances; the person is not prevented by exceptional circumstances from leaving the UK but instead prevented by a sense of moral obligation.

The CA unanimously allowed the taxpayer's appeal on every ground she argued. She had been prevented from leaving the UK in the ordinary sense of the word. Moral inhibitions in this case prevented her just as much as if she had been prevented from leaving by a broken leg. The CA agreed with the FTT that moral obligations can be exceptional circumstances, and found that the UT's view on exceptional circumstances being a matter of law rather than fact was incorrect.

A Taxpayer v HMRC [2025] EWCA Civ 106

www.bailii.org/ew/cases/EWCA/Civ/2025/106.html

3. Trusts, estates and IHT

3.1 Filing issues with in year trust and estate returns

As CGT rates for non-residential disposals changed on 30 October 2024, trusts and estates that need to pay the new CGT rates have been asked by HMRC not to file 2024/25 returns until after 5 April 2025.

HMRC will use a manual workaround to make sure that the correct CGT rate is used by using an adjustment box. This will be available from 6 April 2025.

Some in-year returns can be accepted as follows:

"We can accept 2024/25 in year returns that have:

- *UK property disposals only as there is no change to the CGT rate*
- *Any disposals made before 30 October 2024*

We cannot accept:

- any return with multiple main rates of CGT for disposals on or after 30 October until the 2024-25 return is available in April 2025. Returns that have already been sent will be returned to trustees/PRs.

An adjustment tool will be available alongside the updated 2024/25 return to support a trustee/PR to calculate the correct adjustment figure."

www.att.org.uk/technical/news/year-202425-trust-and-estate-returns

4. PAYE and employment

4.1 Global Mobility update

Currently, companies can apply for a s690 where they have non resident employees in the UK either domestically or under the double tax treaty. A s690 direction allows the UK employer to limit the application of PAYE to the proportion of the qualifying employee's employment income which relates to UK duties performed within the UK.

As part of the abolition of the non domicile rules, there will be an updated process which will apply from April. HMRC has not yet released the guidance but has confirmed that any applications which are currently in place will cease from April and it is likely companies will need to reapply.

An update will be provided when further information is available.

4.2 Former footballer partly wins IR35 case

The FTT has found that image rights for a former footballer were not employment income.

A retired footballer took on other roles relating to the sport such as being an ambassador. He incorporated a personal service company (PSC) in 1981. His commercial work was contracted through that, and other work such as managing a team was outside that. Some of the contracts had his name rather than the PSC's, but he explained that that was simply a mistake.

HMRC argued that this was disguised employment, and issued PAYE determinations and NIC decisions. The PSC appealed.

The FTT looked at what hypothetical contracts covering the real terms of the arrangements would have contained. It found that most of his work was for one club, with which he had a long association, and which provided most of his income. It split his work into two elements. His personal appearances under the ambassador agreement were an employment relationship. He was required to make a set number of personal appearances and act at the club's direction during them. The licensing of his image rights would not have been employment income irrespective of the PSC arrangement and was therefore outside of IR35. The division was left for further agreement.

Bryan Robson Ltd v HMRC [2025] UKFTT 56 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2025/TC09408.html

4.3 Company liable for employers' NIC

HMRC has found that a company that subcontracted offshore duties remained liable to pay employers' NIC for the offshore workers, despite not being their official employer. The host employer provisions applied.

The company took over a contract to supply services for oil and gas drilling platforms. The workers who had carried this out for the company that previously held the contract carried on, and their employment contracts were transferred to the company in this case. Some of the contracts were transferred to other group companies operating in the same jurisdiction as the employees. The UK company continued to manage these transferred employees by providing operational, HR, and logistics services. No secondary NICs were paid on the basis that the official employers were non-UK.

HMRC argued that the host employer provisions applied. The foreign companies that were the official employers simply directed the employees to work for the UK company at its direction. The FTT agreed with HMRC. The responsibility of running the platforms had been taken on by the UK company, and it fulfilled this through the employees. It handled the roster, and

directed their services to an extent that met the framework of day to day control, though the overseas companies had some involvement. The company was ordered to pay over £16 million in employers' NICs.

Odfjell Technology (UK) Ltd v HMRC [2025] UKFTT 28 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2025/TC09400.html

4.4 Changes to Companies Act Threshold for off payroll working purposes

HMRC has confirmed that the changes to the companies act thresholds will apply to off payroll working from 1 April 2025.

A company will be considered small and therefore will not have the responsibility of determining the employment status where an individual engages for an intermediary if it meets 2 of the following 3 conditions –

- Turnover less than £15m
- Balance sheet of less than £7.5m
- Monthly average number of employees – 50

The off payroll working rules apply from the start of the tax year following the accounts filing date and therefore we shouldn't see any practical impact until 2026/27.

www.icaew.com/insights/tax-news/2025/feb-2025/changes-to-size-thresholds-for-off-payroll-working

5. Business tax

5.1 Company loses appeal on enterprise investment scheme

The UT has found that HMRC was correct to deny enterprise investment scheme status for shares in a company using a third party.

The taxpayer, a company that had been incorporated to carry on the trade of developing and producing an animation show, issued various tranches of shares. It first obtained advance assurance from HMRC that these could be treated as qualifying for EIS relief or relief under the SEIS, the seed enterprise investment scheme. HMRC issued compliance certificates for the first few tranches, but following a review it refused to issue compliance certificates for the more recently issued tranches. The FTT upheld this decision, though for different reasons, finding that there were disqualifying arrangements. Sums raised by the share issues were paid to and for the benefit of a third party who had helped to set up the arrangements.

The taxpayer appealed. It argued that the third party was not a 'party to the arrangement' under the meaning of the legislation. Work was outsourced to it, but it did not have creative control. It also contended that the payment was not "payment for the benefit of" under the legislation, as there was no element of bounty but simply a commercial contract.

The UT dismissed the appeal. It held that party had the broader meaning asserted by HMRC, and that the anti-avoidance rule still applied despite the fact that fees were commercial.

Hoopla Animation Ltd v HMRC [2025] UKUT 28 (TCC)

www.bailii.org/uk/cases/UKUT/TCC/2025/28.html

5.2 Consultation on Multinational Top-up Tax and Domestic Top-up Tax (Pillar 2)

HMRC has launched a consultation on the supplementary draft guidance for Multinational Top-up Tax and Domestic Top-up Tax.

HMRC is seeking views on the supplementary draft guidance which includes flow through entities, joint ventures and the additional top-up amounts. This is the final release of draft guidance before the finalised manual is published. The consultation closes on 8 April 2025.

6. VAT and Indirect taxes

6.1 Appeal on MDR dismissed due to planning condition

The FTT has dismissed an appeal from a married couple who, after paying SDLT on their house purchase, attempted to reclaim a portion on the grounds that an annexe was a separate dwelling.

The FTT looked at the characteristics of the annexe. It had its own kitchen and bathroom as well as living space, and a separate front door. There was a door connecting the house and annexe, and utilities were shared. It lacked privacy as its French windows opened directly into the main garden.

A key element was that it was a condition of the planning permission when it was built that the annexe "shall not be used for any purposes other than as ancillary to the residential accommodation presently on the site as a single dwelling unit and not as a separate unit of residential accommodation in its own right". Considering all the circumstances, but particularly this, the FTT found that that annexe was not a separate dwelling and MDR was not available.

Fitzgerald & Anor v HMRC [2025] UKFTT 89 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2025/TC09415.html

6.2 HMRC nudge letters on ATED

HMRC has written to a number of unprofitable companies that own UK residential property worth over £500,000. They fall into two categories: those that have not filed an ATED return, and those that have claimed qualifying property rental business relief (QPRBR) on their ATED returns. This relief is only available where the property is "run on a commercial basis and with a view to a profit". HMRC suspects that the recipients are ineligible for the relief.

The companies are asked to check their ATED position, and either make a disclosure and submit outstanding ATED returns, or contact HMRC with a set list of information to prove their entitlement to QPRBR. The deadline is 40 days from the date on the letter, and lack of response may result in a discovery assessment and increased penalties.

www.icaew.com/insights/tax-news/2025/jan-2025/hmrc-contacts-companies-owning-residential-property

7. Tax publications and webinars

7.1 Tax publications

The following Tax publications have been published.

- [Making Tax Digital: the future of the income tax system](#)
- [Trump tariffs – How will they impact global trade and UK businesses?](#)
- [Labour's Business Rates reform](#)
- [CRS impact on e-money providers](#)
- [Court of Appeal decision in BlueCrest case](#)

7.2 Webinars

The following client webinars are coming up soon.

- 27 February - [Post-Budget insights for family businesses: mitigating challenges, targeting growth and managing succession](#)

8. And finally

8.1 The darkness of glass tax

Those fans of tax history who missed the recent talk on glass tax missed a treat. To illustrate that avoidance is a longstanding problem, we were directed to look at old wine glasses – a hollow stem or air twist reduced the weight, and thus the tax due. Perhaps similar innovations will result from the plastic packaging tax, and reduce the use of plastics. And how will non-compliance compare? The total prosecutions over glass tax fraud between 1832 and 1834 hit 159!

www.taxadvisers.org.uk/history-of-tax-events/

| 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 February 2025.

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