

Tax Update

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1. General

1.1 Season's Greetings

We wish all our readers a merry Christmas and a happy and healthy New Year.

The next edition of Update will be published in January 2025.

1.2 Scottish Budget 2024/25

In its 4 December Budget the Scottish Government announced changes to tax rates and bands.

The Scottish Government has the power to set the income tax rates and bands for the non-savings, non-dividend income of Scottish taxpayers. Thresholds for the basic and intermediate income tax rates will increase from 6 April 2025 by 3.5%. This will mean that more taxpayers fall into the starter rate band. The Government committed not to introduce any new bands or rate increases for Scottish income tax in this Parliament, and to continue to raise the two lower thresholds with inflation.

For LBTT, the additional dwelling supplement has increased from 6% to 8% for transactions on or after 5 December. The Scottish Government will also conduct a review of LBTT, starting in Spring 2025.

www.gov.scot/publications/scottish-budget-2025-2026/

www.icaew.com/insights/tax-news/2024/dec-2024/scottish-budget-makes-income-tax-changes

2. Private client

2.1 Overlap information to be requested from HMRC by 31 December 2024.

HMRC has an online service that taxpayers and agents can use to get details of overlap relief records for a particular individual. HMRC has asked that anyone who needs to use this service for 2023/24 data does so by the end of December due to high demand.

2023/24 is the transitional year for the basis period changes affecting sole traders and partnerships. Details of overlap profits can be requested from HMRC by individuals and agents following the process shown in [HMRC's guidance](#).

As this is the transition year, HMRC is receiving many requests for 2023/24 data, resulting in slower response times. It has asked that these requests be submitted only through this service, not other channels, that only necessary requests are submitted, rather than just checks of an already held figure, and that where possible all requests are submitted to HMRC by 31 December 2024.

www.icaew.com/insights/tax-news/2024/nov-2024/request-overlap-information-from-hmrc-by-31-december

2.2 HMRC nudge letter to possible landlords

HMRC is writing to a group of taxpayers registered for self-assessment that HMRC suspects may be receiving undeclared property income.

The letters explain what income might be taxable, discuss declaring the disposal of a rented property, and set out how to reply. Recipients are asked to either register to make a declaration or tell HMRC that they have nothing to declare within 30 days of the date on the letter. Otherwise, HMRC may open a compliance check.

If affected, you can speak to one of our tax dispute resolution specialists, who can review your situation and advise on the best course of action. You can contact us through our Tax Dispute Resolution Helpline 0203 8334 101 or by emailing us at taxdisputes@evelyn.com.

www.tax.org.uk/hmrc-one-to-many-letter-rental-property-landlords-moonlighter-population

2.3 Taxpayers involved in a film scheme win appeal

Three taxpayers invested in LLPs designed to claim film tax relief, and this case was about the treatment of sums they received from the arrangements put in place to allow them to exit the scheme.

They assigned their capital accounts in the LLP to a company in exchange for cash which they used to repay loans they had taken out to enter into the arrangements, arguing that the cash was a non-taxable capital sum. They sold their remaining interests for €2, which they accepted was a taxable disposal but was insignificant. HMRC argued that the money from disposing of the capital accounts was taxable as income, or alternatively subject to capital gains tax.

The FTT considered the arrangements, but found that the sums were not income, as the LLPs were not trading. In addition, the criteria for this to be a chargeable disposal were not met, so no CGT applied either.

Hoyle v HMRC [2024] UKFTT 1060 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09359.html

2.4 Actor left with £1.8m tax bill

The FTT has found that an arrangement where rights to film income were put into a company, and some of the money received from this was treated as capital due to it being a disposal of the rights, was ineffective. This amount was taxable on the self-employed actor as income.

The taxpayer concluded an agreement with a company, of which he was the sole shareholder, to provide his acting services through it. Rights he held at that time were transferred to the company, such as rights to payment for his acting in films that had already been filmed. The consideration for these, over £8.5m, was left as a debt due by from the company to the taxpayer. In that tax year he declared £4m of the sum as income, being consideration for income from existing contracts, and the other £4.5m, being the consideration for rights, records, and goodwill, as a capital gain subject to entrepreneurs' relief. He later withdrew sums from the company as tax-free debt repayments. HMRC investigated on the basis that the £4.5m was income rather than a capital disposal.

The FTT heard evidence on how the arrangements had come about and the intentions behind them. It found that one of the main objects of the arrangements was the reduction of tax, though it acknowledged the limited involvement that the taxpayer himself chose to take in his financial affairs. It also found that the £4.5m should be taxed as income, though under a different provision to that for which HMRC had argued. It was a capital amount the value of which was derived from the work of the taxpayer, and therefore the taxpayer's appeal was dismissed.

Grint v HMRC [2024] UKFTT 956 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09337.html

3. PAYE and employment

3.1 Partial victory for taxpayer on settlement payment

A taxpayer has successfully argued that part of his settlement payment in an employment dispute was not derived from his employment. It was due to the injury to feelings part of his claim, so non-taxable.

The taxpayer was employed as a director, with a non-guaranteed yearly bonus and incentive plan. In 2013, he was made redundant. On appeal to the employment tribunal, the employer agreed to settle the case, which concerned allegations of unfair treatment, without admitting liability. The employer paid the settlement, including deferred cash from the long-term incentive plan, cash under the equity award, and shares, net of income tax and national insurance.

The taxpayer declared that those elements were subject to IT, but that the balance was outside the charge to income tax, as it was for injury to feelings, and attributable to the discrimination not the employment. The FTT considered the case law, and ultimately agreed that a portion of the payment should be treated in this way, though it was a lesser proportion than claimed by the taxpayer.

L v HMRC [2024] UKFTT 1044 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09355.html

4. Business tax

4.1 SC rules in HMRC's favour on capital allowances in enterprise zones

The UK SC ruled in HMRC's favour that costs incurred more than ten years after the cessation of the zone's tax-favoured status do not qualify for enhanced allowances, even if part of an earlier contract. Significant contractual changes should be treated as new contracts and therefore do not meet the requirements for tax relief.

Expenditure incurred under a contract entered into during the life of an enterprise zone qualifies providing it is incurred within ten years of the end of the zone's tax favoured status. The taxpayer had entered into a so-called 'golden contract' just before the end of the tax-favoured status period. This contract allowed for significant flexibility, including the right to select and change construction projects.

The question before the Court was whether costs were incurred under that original 'golden contract', or a separate contract entered into, at a later date, when the project details were decided. The Courts took a purposive approach, looking at the intent behind the ten year limit and recognising it as a mechanism to ensure timely investment in areas needing economic regeneration stating that the right to alter contracts should not be able to undermine this. The Court noted that in this case there were such significant changes to the contract that it could not be considered a variation but a replacement.

It was under this 'replacement' contract that the costs were eventually incurred, and so enhanced relief was not available.

Cobalt Date Centre 2 LLP v HM Revenue & Customs [2024] UKSC 40

www.bailii.org/uk/cases/UKSC/2024/40.html

4.2 Loan to finance an intra-group acquisition had unallowable purpose

The FTT ruled in HMRC's favour that a loan used to fund a share acquisition had an unallowable purpose of obtaining a tax deduction, and so interest deductions were denied. The Tribunal focused heavily on the documentary evidence available when reaching its decision.

The taxpayer was involved in an intra-group reorganisation where the sale of a company to another group company was partly funded by debt. The company incurring the debt did not obtain a tax benefit itself, but the group as a whole benefitted as the interest deduction was offset against liabilities in another group company. HMRC challenged the deductibility of the interest on the grounds that the primary purpose of the transaction was to secure a UK interest deduction.

The FTT ruled in favour of HMRC, finding that although the taxpayer company did not receive any tax benefit, its purpose was to 'play their part' in a group transaction designed primarily to obtain a loan relationship deduction. There was significant written evidence available that demonstrated that tax was a vital element of the reorganisation, including one spreadsheet titled 'UK tax projects'.

The case highlights how the courts are increasingly looking at the overall group position when considering whether there is an unallowable purpose, and the importance of documentary evidence.

Syngenta Holdings Ltd v HM Revenue & Customs [2024] UKFTT 998(TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09346.html

5. VAT and Indirect taxes

5.1 SDLT assessment valid

The taxpayer bought a property, paid normal rate SDLT then claimed a refund on the grounds that MDR applied. The refund was paid, but following a check HMRC concluded that the claim had been made out of time and the taxpayer needed to repay the refund. The refund and the closure notice denying it were issued on the same day.

The taxpayer argued that as she had had the refund that countermanded HMRC's closure notice, and it was invalid. The FTT however found for HMRC. The refund had been authorised while the claim was being considered. The payment did not affect the validity of the assessment. As the claim was out of time, HMRC was correct.

The Wool House Ltd v HMRC [2024] UKFTT 997 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2024/TC09345.html

5.2 Property residential for LBTT

RS successfully argued that an historic property was residential. Although it had been used as offices for a time it was purchased on the basis that use would change and was suitable for use as a dwelling.

The taxpayers purchased a property in Scotland, paying LBTT at non-residential rates. This was a listed building built in 1622 consisting of a main home and annexe, set in 10.8 acres. It had been left vacant, fallen into disrepair, then been converted into offices. In 2020, planning permission for change of use from offices to a home was granted, then it was sold to the taxpayers. They obtained consent for remodelling, and lived there as a home.

The taxpayers argued that this was a non-residential property on purchase, but the FTSTC found for RS that it was suitable for use as a dwelling. It had been used as a home for over 350 years, compared to a few decades as offices, and on purchase it had a kitchen, bathroom facilities, and was liveable despite needing extensive work.

Ball & Anor v RS [2024] FTSTC 6

www.taxtribunals.scot/decisions/%5b2024%5d%20FTSTC%206.pdf

6. Tax publications and webinars

6.1 Tax publications

The following Tax publications have been published.

- [PPT update - chemically recycled content](#)
- [UK CBAM - What next for businesses?](#)
- [Government consultation published on tackling the hidden economy](#)

7. And finally

7.1 The perfect gift

Readers may have seen lists in many publications suggesting gifts for everyone in your life, generally candles. Obviously, for tax practitioners, the answer is a copy of Sarah Caudwell's excellent detective novels with tax points, if the budget doesn't stretch to a full set of legislation (now that's an excitingly large box under the tree).

Canada however seems to have solved the problem. The answer? Festive tax breaks. Yes, those lucky Canadians have been given a two month GST² exemption on goods such as Christmas trees, children's toys, and puzzles. Perhaps something Father Christmas should consider more widely, if difficult to pop down the chimney.

www.bbc.co.uk/news/articles/czr7xyjy0kmo

¹ <https://blackwells.co.uk/bookshop/product/Thus-Was-Adonis-Murdered-by-Sarah-Caudwell/9781780339276>

² Goods and Services Tax, the Canadian equivalent of VAT

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 December 2024.

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