TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

TAX

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MTD FOR VAT PILOT OPENED UP TO MAJORITY OF BUSINESSES

The Making Tax Digital (MTD) for VAT pilot moved into its public beta phase on 16 October 2018. This means any business that meets the eligibility criteria and has acquired MTD compliant software can now join the pilot. HMRC has also announced a deferral to the start date of six months for some more complex businesses.

From 1 April 2019, VAT registered businesses that have turnover above the £85,000 VAT registration threshold will need to submit their VAT returns to HMRC using software or an API enabled spreadsheet (see icaew.com/mtd for more information). Approximately 600,000 of the 1.1 million businesses that will be required to comply with the MTD for VAT regulations from April 2019 are now eligible to join the pilot. The eligibility criteria is expected to be relaxed as the pilot progresses, but HMRC has yet to release a timetable for these businesses.

Certain businesses and organisations still can't join the pilot. These are any that:

- are a trust or charity;
- are part of a VAT group or VAT Division;
- trade with the EU;
- are based overseas;
- are a partnership;
- submit annual returns;
- make VAT payments on account;
- use the VAT Flat Rate Scheme;
- are a business that is newly registered for VAT and has not previously used their VAT online account to submit their VAT Return; or
- have incurred a default surcharge in the last 24 months.

Note that businesses that pay their VAT by direct debit cannot sign up during the 15 days leading up to the submission date.

A six-month deferral will apply to about 3.5% of businesses that fall into one of the following categories:

- trusts;
- 'not for profit' organisations that are not companies (including some charities);
- VAT divisions and VAT groups;

- public sector entities that are required to provide additional information alongside their VAT return;
- local authorities and public corporations;
- traders based overseas;
- those required to make payments on account; or
- annual accounting scheme users.

These groups will be mandated to use MTD from 1 October 2019.

Businesses can sign up to the pilot at tinyurl.com/BAM-UseSoft1

Agents can sign their clients up to the pilot at tinyurl.com/BAM-UseSoft2

HMRC has also published new videos (tinyurl.com/BAM-HMRCVids) including step-by-step guides to creating an agent services account and signing up to MTD for VAT.

The Tax Faculty will update the information on the ICAEW MTD hub and will consider further support for members such as webinars. The IT Faculty will update the software for MTD content.

IS THE UK TAX SYSTEM A BURDEN?

The Administrative Burdens Advisory Board (ABAB) is surveying businesses to gather feedback on their experiences of the UK tax system.

Employers and payroll agents were invited to complete this year's *Tell ABAB* survey. Its focus was business awareness of MTD for VAT.

ABAB is a committee independent of HMRC, including members from a range of businesses and professions who represent the small business community. Paul Aplin, president of ICAEW and a past chairman of ICAEW's Tax Faculty, and Rebecca Benneyworth, past chairman of the Tax Faculty, are both members of ABAB.

Results from the survey will be published on the GOV.UK website during spring 2019.

For information on the details of the survey visit tinyurl.com/BAM-TellABAB

CHILDCARE VOUCHERS AND DIRECTLY CONTRACTED CHILDCARE SCHEMES

As previously announced, the childcare voucher and directly contracted childcare schemes closed to new applicants on 4 October 2018.

These schemes are being replaced gradually with tax-free childcare.

Workplace nurseries are not affected by this change.

TRADING AFTER BREXIT: WEBINAR

If you are confused by what the trading landscape will look like after Brexit, then you should watch our latest webinar *The Trading Landscape after Brexit: The Customs Perspective*.

Presented by Frank Haskew and Próna Brady of Chartered Accountants Ireland (CAI), the webinar was a follow-up to the CAI/ICAEW joint publication *Taking the lead: chartered accountants and Brexit* (tinyurl.com/BAM-TakingTheLead), which was published in July 2018.

The webinar was designed to provide members with a helpful summary of what the future trading landscape could look like and what customs procedures and processes will be needed for future trading between the UK and the rest of the EU.

Topics covered included:

- an overview of trading under Free Trade Agreements, World Trade Organisation rules and Customs Unions;
- how customs and duty arrangements work under the different types of arrangements;
- proposed changes will happen to the VAT rules; and
- latest developments including the Cross Border Trade Act 2018 and government preparations for a no-deal Brexit.

Visit tinyurl.com/BAM-TradeWebinar

SELF ASSESSMENT TAX: ONLINE FILING EXCLUSIONS

The 31 October 2018 deadline for filing self assessment returns for 2017/18 on paper has passed. But this deadline for processing paper returns is effectively extended to 31 January where the return is covered by an exclusion from online filing.

It is advisable to file paper returns as soon as possible; there were considerable delays to the processing of 2016/17 paper returns for exclusion cases. A backlog of approximately 5,000 returns accumulated and 150 of these cases have still to be cleared. HMRC is also working through a considerably larger number of returns filed online where one of the exclusions means that the tax calculation may be incorrect.

2017/18 exclusions

The latest exclusion list for 2017/18 is version 1.1, published on 11 May 2018. HMRC was expected to publish a revised exclusion list on GOV.UK by 22 October 2018. Version 1.1 includes several new exclusions for 2017/18 (numbers 82 to 90). Many of the exclusions that were new for 2016/17 have been removed, but notably one of the exclusions relating to dividend income and the two exclusions relating to top-slicing relief remain on the list.

A further six exclusions have been identified and will be included as numbers 91-96 when the next version is published. These exclusions concern Lloyds underwriters, relief for property finance costs and Scottish taxpayers:

- #91: all Lloyds underwriters' dividends on 2017/18 returns should be received after 6 April 2017 and therefore not have a tax credit. The SA tax calculator is allowing a tax credit in error.
- #92: where a taxpayer who has income from property is claiming finance relief and has transferred some of their personal allowance as marriage allowance, they will have a reduced amount of 'adjusted total income' at Step 3 of section 6 of s274AA ITTOIA which will result in relief not being given in error where the higher amount of personal allowance restricts the relief amount.
- #93: a taxpayer claiming relief for finance costs in box FOR24.1 on the foreign pages where there are losses brought forward at FOR26 set against adjusted profit in FOR24 will have an incorrect calculation where FOR24 is greater than FOR24.1 and FOR27 is less than FOR24.1.
- #94: taxpayers with Scottish status that are claiming remittance basis will be taxed as if they are not a Scottish taxpayer on all income. Where there is non-savings income of more than the extended Scottish basic rate band (usually £31,500) after deducting reliefs and allowances (if due) the customer will be charged less tax.
- #95: taxpayers with Scottish status that have non-savings income of more than the extended Scottish basic rate band (usually £31,500) before deducting reliefs and allowances (if due), and, after reliefs and allowances, have taxable savings income of up to £500 in the higher rate band 40% where there are allowances set against dividends at higher rate 32.5% the customer will be charged more tax.
- #96: taxpayers with Scottish status liable to tax at or above the higher rate who have made pension

payments with relief at source and/or gift aid will receive excess relief where the Scottish basic rate band is increased and the UK basic rate is increased by the same amount and this takes more than the payment amounts out of charge at the higher rates.

We understand that HMRC will attempt to correct the calculations where an exclusion case is filed online. The importance of checking calculations very carefully is highlighted once again.

EMPLOYMENT LAW

THIS SECTION IS SUMMARISED FROM THE BULLETINS OF VARIOUS LAW FIRMS AND ASSOCIATIONS. NONE OF THE INFORMATION IN THIS UPDATE SHOULD BE TREATED AS LEGAL ADVICE

EMPLOYEES CALL IN SICK TO COVER UP MENTAL HEALTH ISSUES

A new report into the state of workers' mental health reveals that significant numbers are covering up their condition by claiming to be physically sick.

The report, *Hiding in plain sight: mental health in the workplace*, was published by BHSF Occupational Health. It revealed that 42% of staff ringing in sick have been doing so to hide their anxiety, depression or stress. Just 15% admitted they would tell their boss the truth.

According to BHSF, around 40% of work absence is due to illness related to poor mental health. It expects this to rise to 70% over the next five years.

The report offers a nine-step plan for creating a mentally healthy workplace.

Download it at tinyurl.com/BAM-BHSF

COMMITTEE REPORT ON IMPROVING APPRENTICESHIP SCHEMES

People from disadvantaged backgrounds need more help to access apprenticeships. That was one of the findings of a government select committee on education, which has just released a report on the subject.

The apprenticeships ladder of opportunity: quality not quantity lists 27 separate recommendations relating to the quality of apprenticeships and to social justice issues arising around them.

It stated that providers should be monitored to ensure they have enough resources to fulfil the roles they set out to; if found to fall short, they should be removed from the register of approved apprenticeship training providers.

The committee also recommended that the government should increase incentive funding for SMEs and social enterprises and extend the co-investment waiver for small investors to cover young people up to the age of 24. The limit is currently 18.

One of the key social suggestions was to create a bursary scheme to help people from disadvantaged groups access places, potentially to be modelled on the care leavers' bursary. This scheme already gives those raised in care £1,000 if they take up an apprenticeship, with the money used to help them transition to a workplace environment and get to grips with the cost of living.

Apprentices are currently entitled to a minimum training wage of £3.70 per hour. The select committee also want this raised to significantly above the rate of inflation, and ultimately abolished.

The report comes as government inspector of education, Ofsted, found that up to a fifth of apprenticeship providers don't make the grade – 60 providers were insufficient in making progress.

See tinyurl.com/BAM-AppLadder

SURVEY OF CARER VULNERABILITY IN THE WORKPLACE

More than three quarters of workers think that remaining in a job is tough for people with caring responsibilities, with 47% believing that workers who doubled as carers were discriminated against.

The survey of 3,000 public sector workers by the Unison union and YouGov revealed that three-quarters also made alterations to their career in order to absorb caring roles, such as looking after parents or children. Almost a fifth were forced to quit, and about two-thirds had a period of unpaid leave. Workers also reported being passed over for promotion as a result of their caring role.

The results of the survey were discussed in parliament on the back of an earlier poll that called for greater support in the workplace for carers and parents.

Unison and the family charity Coram have been calling for a change to the law granting people 10 days of paid leave for caring duties and up to a year of unpaid leave, plus support for employers.

Visit tinyurl.com/BAM-WorkCarers

FREE LEGAL ADVICE FOR EMPLOYERS

Did you know that the Employer Service offers free legal advice to employers? Any business with an employment law, HR or management conundrum can call its free hotline around the clock, with no limit on the number of times you can call.

The advisers can point businesses owners and managers in the direction of free resources helping them to comply with employment law. Its advice is based on the Acas code of practice.

Visit employeradvice.org for details.

FINANCIAL REPORTING

YOU CAN FIND OUT MORE ON THE LATEST FROM THE FINANCIAL REPORTING FACULTY AT ICAEW.COM/FRF

BREXIT

On 12 October the Department for Business, Energy & Industrial Strategy published some guidance on the implications for accounting and audit if the UK leaves the EU with no deal.

Currently, the UK follows the EU rules and regulations in the areas of accounting, corporate reporting and audit. These rules and regulations are mainly reflected in the Companies Act 2006 and associated regulations.

The guidance states that the government will ensure that the UK continues to have a functioning regulatory framework for companies and, as far as possible, the same laws and rules that are currently in place continue to apply.

UK incorporated subsidiaries and parents of EU businesses will continue to be subject to the UK's corporate reporting regime. However, certain exemptions relating to the preparation of individual accounts will no longer be extended to companies with parents or subsidiaries incorporated in the EU.

UK businesses with a branch operating in the EU will become third country businesses in the Member State in which they operate. Compliance with the accounting and reporting requirements of the Companies Act 2006 may no longer be considered sufficient by the Member State.

UK companies listed on an EU market may be required to provide additional assurance to the relevant listing authority that their accounts comply with IFRS in accordance with EU third country requirements.

See tinyurl.com/BAM-NoBrex ●