TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

TAX

HMRC ACTS TO PREVENT SPOOFING OF HELPLINE TELEPHONE NUMBERS

HMRC has introduced new controls to prevent 'spoofing' or mimicking of its most used and recognisable telephone numbers.

This action has been taken in response to a significant increase in phone scams from almost 8,000 in 2017/18 to almost 105,000 in 2018/19. Many of these calls targeted elderly or vulnerable taxpayers and included demands for immediate payment. Since the controls were introduced in April this year, the number of phone scams spoofing genuine inbound HMRC numbers has reduced to zero.

The controls apply only to the most frequently used inbound helpline numbers; criminals may still try to use less credible numbers and taxpayers need to remain alert. HMRC does not make outgoing calls from any of its published contact phone numbers and in most cases withholds the phone number from which it is calling.

HMRC publishes detailed guidance on recognising genuine HMRC contact and how to report phishing and scams (see tinyurl.com/BAM-HMRCspoof).

Suspicious calls and emails claiming to be from HMRC should be reported to phishing@hmrc.gov.uk and texts to 60599. In the case of financial loss contact Action Fraud on 0300 123 2040 or use their online fraud reporting tool at actionfraud.police.uk

ICAEW RESPONSE TO CONSULTATION ON ABUSE OF R&D TAX RELIEF FOR SMEs

The Tax Faculty has responded to the government consultation on preventing abuse of the research and development (R&D) tax relief for SMEs. Our response is published as ICAEW Rep 55/19.

The policy objective is to reduce the number of fraudulent claims for R&D relief, specifically those exploiting the tax repayment available under the SME scheme by capping the relief available by reference to the claimant's PAYE liabilities. While we understand the desire to exclude any false claims, we are unclear on the extent to which imposing a blanket cap will prevent them.

The cap will serve to reduce the availability of relief for many participants in the scheme, including those that undertake genuine R&D activity. It was widely agreed that smaller start-up businesses are likely to be the most affected by the introduction of such a cap. The introduction of a 'threshold' below which the cap will not apply will help to limit the adverse effect of the policy in this category and was widely supported by all members.

We also suggested the introduction of a special application so taxpayers could request a review by HMRC where they consider they would be eligible for further R&D relief in the absence of such a cap. This would enable, by exception, genuine R&D companies to obtain the relief even though their PAYE liabilities might be minimal.

See the consultation document in full at tinyurl.com/BAM-RD-abuse

MTD FOR VAT: CURRENT ISSUES

As we reach the critical stage of the implementation of Making Tax Digital (MTD) for VAT, the Tax Faculty summarises some current issues.

Digital exclusion exemption applications: HMRC's guidance advises that applications can be made by phone or in writing. Members have reported that the VAT helpline is requiring some applications to be made in writing rather than on the phone. HMRC has confirmed that while an application is being considered a business can continue to file its VAT returns as it does currently.

VAT registration certificates: Once a business is signed up to MTD, it is not possible for agents to view VAT registration certificates either in the old agent portal or the agent services account. The VAT registration certificate is also not visible in the business tax account (or at least not where it used to be visible – clarification has been sought from HMRC).

Setting up direct debits: Agents cannot set up direct debits online on behalf of clients; HMRC's view is that it would not be appropriate for an agent to do so.

Authorising new clients: The new agent authorisation service available from the agent services account (ASA) cannot be used to become authorised for a new client unless they are already signed up to MTD for VAT. Instead agents need to use the current online agent authorisation process for VAT. Once the client has been authorised and appears in the old agent portal they will also be authorised for MTD. The link between the ASA and the agent portal is dynamic so the new client will be recognised for MTD. The advantage of using this approach is that the client will appear on the client list in the agent portal giving the agent access to a complete client list.

Systems issues: There are a number of issues with HMRC MTD systems, each of which is reported to affect a very small number of businesses. These include:

- direct debit mandates not transferring across correctly;
- some businesses (including some overseas) being unable to sign up, in some cases because of an insufficient 'digital footprint' in HMRC systems; and
- incorrect VAT return periods being set up in software due to incorrect information being fed through from HMRC systems.

The Tax Faculty has taken all these issues up with HMRC.

For further information on MTD, see icaew.com/mtd

EMPLOYMENT

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

WHO HAS THEIR HOUSE IN ORDER FOR IR35?

Is your business prepared to changes the way it deals with contractors?

According to a survey, more than half of businesses haven't got time to prepare individually for the tax changes to IR35 and are instead taking a blanket approach.

Just 47% of companies polled for the report, *IR35: A Ticking Timebomb*, had spent time getting to know the new legislation.

While 59% said they'd adopted a blanket approach, the remaining 41% feared doing so in case they got the wrong category and would then lose their valued contractors.

Brookson Legal conducted the survey and report after speaking with 502 businesses around the UK.

Read the report in full at tinyurl.com/BAM-IR35-BL

For guidance on how to proceed with your own business's transition to the new rules, which govern the treatment of contractors in the private sector, see the Tax Faculty's Taxbite at tinyurl.com/BAM-IR35Taxbite

CHALLENGE TO MATERNITY PAY DENIED

The courts have ruled that businesses can continue to offer mothers enhanced pay while on maternity leave and not offer the same to those on shared parental leave.

In a joint test case, two fathers engaged in a dispute with their employers – Capita and the Leicestershire Police Force – in which they had claimed the current law discriminated against them as fathers because the enhanced rate was only available to mothers.

One of the men argued that only the first fortnight of maternity leave (which is compulsory) was necessary, as beyond that time it was about a family making childcare choices. The court disagreed and said the period of leave was more about physical recovery – "matters exclusive to the birth mother resulting from pregnancy and childbirth and not shared by the husband or partner".

The second man claimed that paying women more on maternity leave than those on shared leave constituted indirect discrimination against men. The court argued that his complaint was one of equalising pay, not of discrimination.

After the ruling, legal commentators said the outcome was a victory for women – and that the opposite outcome may have created a climate in which companies reduced their enhanced maternity offering in order to be able to meet equalised rates for shared parental leave.

See tinyurl.com/BAM-CTJ-MP

WORKPLACE SNAPSHOT: ATTITUDES TOWARDS BOOZING, HEALTH AND NEURODIVERSITY

With the lines between work and home life seemingly more blurred than ever, it's no surprise to find that workers believe their jobs are having a negative impact on their health and wellbeing.

In the latest *Employee Health, Wellbeing and Benefits Barometer* from Willis Towers Watson, 2,000 permanently employed people were asked about their experiences in the workplace.

Two thirds (64%) said they were too busy to take breaks at work, even though 52% believed it would improve their health. At the same time, 47% believed their job was instrumental in them not being able to lose weight – and they had skipped going to the gym because of their working hours.

A significant minority of workers felt that employers were contributing to unhealthy practices – a fifth claimed they were under pressure to drink alcohol, with 16% saying they took a day off because of a hangover in the past year.

There were some mixed messages among the results – half of those surveyed said employers getting overly involved in their lifestyle choices (such as enquiring about how much they exercise and what they eat/drink) left them feeling uncomfortable. Yet 30% believed an employer had a moral responsibility to help workers become fit and healthy.

Over a third (34%) thought that employers crossing the lifestyle line would create a *Big Brother* culture.

Workers are starting to see more provision being made to support people's diverse needs, though they could do more for neurodiversity. Up to 15% had colleagues with neurodiverse conditions such as autism, though 12% said they weren't aware of colleagues' situations. Some 32% said that their employer hadn't offered additional support to those workers.

Geographically, the statistics revealed a gulf of difference in employers offering awareness workshops or other education and training to those with neurodiverse colleagues – in Northern Ireland this was said to be available by 76% of those surveyed, but in Wales it was just 20%.

When it comes to benefits packages, the pension is still the most valued benefit cited by 62% of those polled. But health insurance (43%) and life insurance (40%) were also important. Higher earning individuals, too, were more satisfied with their benefits packages (60%), versus those earning under the national average (40%).

Willis Towers Watson said that the report offered meaningful insights for employers, and stated: "We hope the 2019 barometer will help provide UK Plc with a deeper of understanding of the pressing needs and priorities of the modern workforce."

See the full report at tinyurl.com/BAM-WTW-BB

FINANCIAL REPORTING FACULTY

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

FRS 102 – DEFINED BENEFIT PLANS

Prior to the *Amendments to FRS 102 – Multi-employer defined benefit plans*, FRS 102 did not include clear requirements to address how an entity should account for the transition from defined contribution accounting to defined benefit accounting when sufficient information becomes available to do so.

When an entity transitions from defined contribution accounting to defined benefit accounting, the amendments require the entity to recognise any difference between the previously recognised liability (if any) and the carrying value of the net defined benefit liability (or recognisable asset) as a separate item in other comprehensive income.

The amendments are effective for accounting periods beginning on or after 1 January 2020, with early application permitted.

Read the FRC press release at tinyurl.com/BAM-FRCamend

FRS 101 – DEFINITION OF QUALIFYING ENTITY

The FRC has issued *Amendments to FRS 101 The Reduced Disclosure Framework – 2018/19 cycle*, which amends the definition of a qualifying entity so that insurers cannot apply FRS 101 from the effective date of IFRS 17 Insurance Contracts. Unlike accounts that apply IFRS in full, those prepared in accordance with FRS 101 must comply with detailed accounting requirements set out in company law. Some of these requirements conflict with the requirements of IFRS 17.

Access the amendments at tinyurl.com/BAM-101docs

INTEREST RATE BENCHMARK REFORM

FRED 72 *Draft amendments to FRS 102 – Interest rate benchmark reform* proposes amendments to specific hedge accounting requirements of FRS 102 to provide relief to avoid unnecessary discontinuation of hedge accounting as interest rate benchmarks are being reformed. FRED 72 is based on similar proposals issued by the IASB, and has a proposed effective date of 1 January 2020, with early application permitted.

Comments are due by 20 September 2019.

See tinyurl.com/BAM-Fred72amend

IFRS PROPOSED AMENDMENTS

The IASB has published two exposure drafts.

Annual Improvements 2018–2020

ED/2019/2 proposes narrow-scope amendments to four IFRSs: IFRS 1 *First-time Adoption of IFRS*; IFRS 9 *Financial Instruments*; Illustrative Examples accompanying IFRS 16 *Leases*; and IAS 41 *Agriculture*.
Comments are due by 20 August 2019.
Visit the project page at tinyurl.com/BAM-IFRS-ED18-20

IFRS 3 Business Combinations

The proposed amendments would update a reference to the *Conceptual Framework for Financial Reporting* without changing the accounting requirements for business combinations. The comment deadline is 27 September 2019.
Visit the project page at tinyurl.com/BAM-IFRS-ED-IFRS3

NEW ICAEW RESOURCES

Accounting if there's no Brexit deal

The implications of a 'no deal' Brexit for preparers of IFRS and UK GAAP accounts are outlined in ICAEW's updated Brexit guide.
Access all ICAEW's Brexit resources at icaew.com/brexit

Strategic report

The Financial Reporting Faculty has produced a five-step guide to preparing a strategic report. The new online guide includes a summary of the requirements and practical tips to encourage thinking about what information to include and how it might be presented.
icaew.com/strategicreports

FRS 102 Triennial Review

A new webpage brings together all our commentary and practical guidance on the amendments that are effective from 1 January 2019.
icaew.com/triennialreview ●