

TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

TAX



MTD FOR VAT: FINAL CHANGES PRIOR TO MANDATION IN APRIL 2019

HMRC is making some final changes to the systems and processes for Making Tax Digital for VAT (MTD for VAT). The scheduled shutdown of MTD for VAT services for maintenance between 15 and 19 March 2019 allowed these changes to be made.

The changes include:

- The restriction which prevented overseas businesses from joining the MTD for VAT pilot has been removed. All businesses except those that use the VAT GIANT system can now join the MTD for VAT pilot.
- The period during which businesses that pay their VAT by direct debit can sign up for MTD for VAT has been extended. Such businesses can now sign up except within the five working days after their VAT return filing deadline and the seven working days before the deadline. For further details see new content from ICAEW on *Signing up for Making Tax Digital for*

VAT - step by step for businesses (tinyurl.com/BAM-SignUpMTD) and *Signing up for Making Tax Digital for VAT - step by step for agents* (tinyurl.com/BAM-MTDAgents).

- From 1 April 2019, HMRC will remove the mandatory requirement for a client email address to be provided during the agent-initiated sign up to MTD for VAT process. However, clients paying by direct debit will still need to provide an email address and agree to paperless communication for VAT. See tinyurl.com/BAM-MTDAgents for further details.
- HMRC has made changes so that once a business has signed up to MTD for VAT it will not be possible to file returns through the government gateway VAT return or using XML VAT filing software. The Tax Faculty understands that the MTD for VAT notice (tinyurl.com/BAM-MTDNotice) will be updated; full details are not yet available but the changes are expected to relate to the recording of petty cash, records maintained by charity volunteers and creation of digital records from statements that show a full VAT breakdown.

HMRC'S LATEST EMPLOYER BULLETIN - YEAR-END REPORTING, OPRA RULES, AND MORE

HMRC published its latest edition of *Employer Bulletin* (tinyurl.com/BAM-EmpBulletin) on 11 April 2019. It is filled with a variety of interesting articles, some of which we summarise below.

Optional remuneration arrangements

The first article is a reminder about the optional remuneration arrangement (OpRA) rules that changed in April 2017. These rules apply to employer-provided benefits-in-kind (BiK) which have the option of a cash allowance, flexible benefit packages with cash options and salary sacrifice arrangements.

From April 2017, the value of all affected BiK is now the higher of the original value or the amount foregone in the year; for previously-exempt BiK, the taxable value is the amount foregone.

Employers need to report the higher value on forms P11D and P11D(b). There were transitional provisions for arrangements during 2017/18, but these mostly ended on 5 April 2018. Some cars, accommodation and school fees are still taxed under the old rules, subject to certain conditions, outlined in the *Bulletin*, which also summarises the changes in early October 2018 to childcare vouchers and directly-contracted childcare.

Pension contributions, pension advice, workplace nurseries, cycle-to-work and cars with CO2 emissions of 75g or less are unaffected.

Reporting when the normal payday falls on a non-banking day

When contractual paydays may fall on a non-banking day, employers are reminded to put the contractual payday on the full payment submission (FPS) rather than the date when salary/wages are paid to employees.

Employers who submit the FPS later than the contractual payday, perhaps because they pay their employees later than their contractual payday, should report on the FPS "Late reporting reason code G".

Forms P11D for 2018/19

Year-end forms P11D and P11D(b) must be submitted to HMRC by 6 July 2019 and Class 1A NIC paid by 19/22 July. The article provides tips for submitting the data, including for those who use paper and spreadsheets.

Confirming a national insurance number

The *Bulletin* includes four tips on the quickest ways for a new employee to get proof of their NINO.

Welsh income tax

Welsh rates of income tax came into operation from 6 April 2019. Tax codes for taxpayers living in Wales now begin with C. Employers should ensure they are using the latest version. Employees are responsible for providing their employers with their up-to-date address in order to determine where they live for the devolved taxes.

We covered this in our previous news item *Welsh tax changes from April 2019* (tinyurl.com/BAM-WelshTaxChanges).

Employers who have payrolled BiK are not absolved from completing these year-end forms, as they must submit form P11D(b) to account for Class 1A NIC. They must also tell their employees what benefits have been payrolled.

Apprenticeship levy

From April, the amount of funds that levy-paying employers can transfer to other employers to support apprenticeships has increased from 10% to 25%. Levy payers can transfer funds to any employer, subject to conditions (see tinyurl.com/BAM-TransferAppFund). These can include employers in their area, sector or supply chain, or even charities. The funds can be used to support new apprenticeship programmes or to upskill an existing workforce.

Throwing a party

HMRC sets out the rules for employers providing social functions for their employees. The article summarises the conditions for tax exemption and how to report taxable benefits.

OFFICIAL RATE OF INTEREST STAYS AT 2.5%

HMRC has confirmed (in the latest *Employer Bulletin*) that the official rate of interest will remain at 2.5% for 2019/20. This rate has applied since April 2017.

The official rate of interest is used to calculate the tax charge on beneficial loans and the taxable benefit of some employer-provided living accommodation.

If an employer makes a loan to an employee at an interest rate less than the official rate, the employee is charged to

tax on an amount based on the official rate less any interest paid. Some loans are exempt (broadly, those qualifying for tax relief), and there is no charge if the total of all non-qualifying loans to the employee does not exceed £10,000 at any time in the tax year.

Where an employee is provided with taxable living accommodation, there is an additional benefit-in-kind charge if the accommodation costs over £75,000. This is calculated as the 'appropriate percentage' of the cost of providing the accommodation over £75,000 less any costs paid by the employee. The appropriate percentage is the official rate of interest at the beginning of the relevant year of assessment.

HMRC publishes both actual and average rates for each tax year. These will be the same unless the official rate has been changed during the year. For a list of rates from earlier years, see *Beneficial loan arrangements - HMRC official rates* (tinyurl.com/BAM-BeniLoanAgree).

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

PAY-GAP REPORTING: STATISTICIANS RECOMMEND CHANGES

The Royal Statistical Society (RSS) has said that gender pay gap reporting could be improved to make it harder for companies to "game" the system.

The society studied existing means of calculating the pay gap and came up with a list of 10 recommendations to ensure reporting is more accurate.

The recommendations, which have been grouped into key objectives, are said to "make the whole process simpler for employers to understand". It is hoped any progress made by employers in closing gaps will be easier to assess.

The objectives are to reach a clearer and more consistent system, increase accuracy, protect the system's integrity, and safeguard smaller employers.

The RSS stated that some organisations had been presenting their pay data formats that were easier to understand than others, and remarked

on how several companies had been entering their data incorrectly. The RSS called for better guidance to firms on how to prepare their pay gap reports and avoid misleading results.

Jennifer Rogers, vice-president of external affairs for the RSS, said in a statement that they would “seek to take our proposals to a wide range of relevant policymakers, both in government and on the opposition benches in parliament and beyond” to keep the issue on the agenda in the coming months.

Since 2017, it has been compulsory for any business employing more than 250 people to report the difference between the average earnings of men and women, expressed relative to men’s earnings. But there has been criticism of criteria used to assess earnings, for example whether men and women are being compared like-for-like based on working the same role, rather than on all data for all men and women (including making proper allowances for the higher number of women in part-time posts).

Other recommendations made by RSS include providing free online calculators to increase the accuracy of reporting; calculating the pay gap to the quartile to make it harder for the system to be ‘gamed’; and keeping the current threshold at 250 employees.

The RSS has also put forward the idea to flag organisations that have fewer than 100 women or men in the database. This is due to the possibility of organisations having sizeable gender pay gaps even if they aren’t operating in a “discriminatory way”. The RSS says that in these instances the employer should be given a greater benefit of doubt when the organisation’s pay gap is considered, and that it would be “helpful” for policymakers to be made aware of how many companies employ fewer than 100 women or men.

The full set of recommendations can be read at tinyurl.com/BAM-RSSGap

RULING IN FAVOUR OF EMPLOYER AFTER WORKER’S PARTY FALL

A cancer charity will not need to pay £300,000 in compensation to a worker who was picked up and dropped by another worker at a Christmas party.

The High Court found that Cancer Research UK (CRUK) was not liable for back injuries sustained by the woman when a man picking her up lost his balance.

The appellant claimed that because the party, in 2012, took place on the charity’s premises that CRUK owed a duty of care to her that was not fulfilled when she was handled on the dance floor, allegedly without her consent.

However, after comparing the circumstances with a range of test cases, the High Court came down in favour of CRUK, stating that “each case of this kind is fact-specific and that the delineation of the boundary of the duty of care will, likewise, be variable”.

It was concluded that organisers of a party could not be expected to get written declarations from attendees that they would not behave inappropriately, conduct risk assessments that encompass “eventualities stemming from all such forms of inappropriate behaviour”, trained staff to attend and training for those providing the risk assessment. It was said that an “archetypal reasonable person of the early 21st century would not regard this as a socially appropriate set of requirements to impose upon the organisers of any Christmas party or other similar social gathering, regardless of the circumstances”.

The full judgement can be found at tinyurl.com/BAM-CRUKFall

FINANCIAL REPORTING



YOU CAN FIND OUT MORE ON THE LATEST FROM THE FINANCIAL REPORTING FACULTY AT [ICAEW.COM/FRF](https://www.icaew.com/frf)

CARBON AND ENERGY REPORTING

As noted in our February edition, there are new reporting requirements on carbon and energy reporting within the directors’ reports of large and quoted companies. The new rules came into effect for financial years starting on or after 1 April 2019. Read more about the requirements for the directors’ report tinyurl.com/BAM-CarbEnRep

IFRS ADOPTION

Regulations providing for a UK IFRS adoption framework after Brexit were made on 26th March 2019. The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 provides that the international accounting standards (IFRS) adopted for use in the UK on the day that the UK leaves the EU will be those that had been adopted by the EU immediately before exit day. The legislation also provides for a national framework for endorsement and adoption of IFRS after the UK’s departure from the EU.

You can find the legislation and the explanatory memorandum at tinyurl.com/BAM-IFRSAdopt

ESMA PRIORITIES FOR 2019

In 2019, the European Securities and Markets Authority (ESMA) will continue to focus on consistency in the application and enforcement of the new standards which came into force in 2018 (IFRS 15 Revenue from Contracts with Customers and IFRS 9 Financial Instruments) and on the disclosure of the expected impact of implementation of IFRS 16 Leases.

When it comes to non-financial information, enforcers will focus on strengthening the harmonisation and enforcement of the disclosures of non-financial information, notably those related to environmental and climate change-related matters, as well as on the application of the ESMA Guidelines on Alternative Performance Measures.

For more information read the press release at tinyurl.com/BAM-ESMA2019 ●