TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

TAX

NEWS AND UPDATES FROM THE TAX FACULTY WEEKLY NEWSWIRE. VISIT ION.ICAEW.COM/TAXFACULTY AND CLICK THE SIGN-UP LINK TO SUBSCRIBE FOR FREE

NOT THE RIGHT TIME TO ALTER PENSION TAX RELIEF?

ICAEW has questioned whether it is the right time to change rules on tax relief on pension contributions, which would increase administrative burdens.

ICAEW's Tax Faculty has expressed this in its response ICAEW REP 90/20 to a call for evidence from HM Treasury on tax relief on pensions tax relief administration.

The government is concerned about the potential for a low-earning individual's take-home pay to be affected by the method of pensions tax relief operated by their pension scheme.

The question is one of policy, ie should scheme members who are non-taxpayers receive a top-up equivalent to basic rate tax on their pension contributions and, if so, should the top-up be paid to the member or into their pension pot?

ICAEW acknowledges that the 2006 A-Day and numerous subsequent changes have increased complexity but argues that the current rules are widely understood and work for the majority.

In its response to the call for evidence, ICAEW warns that there is a danger that the potential complications of further changes could outweigh the benefit – especially at present when businesses have other pressing priorities.

The proposal in the call for evidence that ICAEW believes is most worthy of consideration is Approach 1, which appears to be based on Budget representations submitted in September 2018 by the Low Incomes Tax Reform Group and updated in September 2019 by the Net Pay Action Group.

ICAEW recommends that the options that are taken forward are benchmarked prior to implementation against its Ten Tenets for a Better Tax System.

TAX-FREE ALLOWANCE CONFIRMED FOR HOME WORKERS

Employees working from home can have a £6 per week or £26 per month allowance paid tax-free by employers or, during the pandemic, can claim a deduction from earnings for this allowance, HMRC has confirmed.

The allowance is to cover tax-deductible additional costs that employees who are required to work from home have incurred, such as heating and lighting the workroom, and business telephone calls.

Employees can claim a fixed amount of £4 per week up to 5 April 2020 then £6 per week thereafter. Alternatively, employees can claim relief on the actual amounts incurred, subject to being able to provide evidence, such as phone bills.

The relaxation to enable employees working at home because of COVID-19 to claim a deduction (under 336 ITEPA 2003) where they have not been reimbursed by their employer (which would be exempt under s316A ITEPA 2003) was announced in a parliamentary question answered on 27 March.

Employees who are not reimbursed by their employer can claim this allowance as a deduction from their earnings in their tax returns, or via the government gateway to claim tax relief in-year for 2020/21 through the code number.

ICAEW understands that this is a COVID-19 easement. After the pandemic, the rules will revert to the previous position, under which the allowance is tax-free only where paid by employers.

HMRC has confirmed that the £6 per week/£26 per month is available in full, even if an employee splits their time between home and office: ie it does not need to be pro-rated over the number of days spent each week at home and in the office.

Claims will not be rolled forward, so a new claim will be needed in 2021.

ICAEW understands that if an employee who has told HMRC that they are working from home returns to working in the office, there is no need for the employee to tell HMRC.

ICAEW SUPPORTS REVIEW OF R&D EXPENDITURE

ICAEW has backed plans to review qualifying R&D expenditure to ensure it's well targeted and reflects modern processes, but encouraged HMRC to consider how it might reform R&D relief to support all industries.

In ICAEW REP 91/20 (Scope of qualifying expenditures for R&D tax credits) ICAEW supports HMRC's desire to ensure that any changes to the current scope of R&D tax relief will help drive decisions to make new investments, thereby providing relief in a cost-efficient manner, which ultimately maximises value for the Treasury.

The consultation also seeks to identify areas where current eligible costs could be considered as routine work and should not be receiving relief. However, discussions with members indicate that there is only limited capacity to restrict qualifying expenditure on the basis that it did not appear to contribute to the R&D project or was 'routine' in any event.

The consultation focuses on qualifying expenditure in the context of cloud computing and data. If the overall objective is to increase genuine R&D activity by expanding the scope of qualifying expenditure, members considered the focus on cloud computing and data was quite a niche approach to achieve this.

ICAEW members also raised concerns that the focus could create uncertainty in sectors outside of the technology industries that rely heavily on R&D and are of significant public interest such as life sciences.

The Tax Faculty also encouraged HMRC to consider some inconsistencies in how the law around qualifying R&D expenditure applies in practice.

Some of these anomalies result from a discrepancy in the eligibility of the same costs depending on whether they were 'in-house' or outsourced. This seems at odds with the objective of the legislation.

ICAEW will continue to work with HMRC as this consultation develops and clarity emerges over how any changes will work in practice.

PENALTIES WAIVED FOR LATE FILING OF SELF ASSESSMENT

HMRC will not charge daily penalties for late filing of 2018/19 tax returns as an easement during the pandemic.

Daily penalties will not be charged where someone has been late filing their 2018/19 self assessment tax return. HMRC says that this is in recognition of the exceptionally difficult circumstances many taxpayers faced due to the impact of the COVID-19 pandemic, particularly during the period when the daily penalties accrued.

The six-month and 12-month penalties will be charged as usual for late 2018/19 tax returns. HMRC has also confirmed that it expects returns to be filed on time where possible, but it will consider coronavirus as a reasonable excuse for missing return deadlines. It has also indicated that it will keep operational decisions under review.

Daily penalties are usually charged at £10 per day for each day the return is more than three months late, for a maximum of 90 days. A further penalty of £300 (or 5% of the tax due if greater) is charged when a return is six months late and again when the return is 12 months late.

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

UK UNEMPLOYMENT LEVELS SURGE, WITH FURTHER RISES EXPECTED

As the coronavirus pandemic continues to hit the UK job market, the unemployment rate has soared to its highest level in more than three years.

According to the Office for National Statistics (ONS), in the three months to August, redundancies reached the highest level seen since 2009.

Johnathan Athow, ONS deputy national statistician for economic statistics, says that there has been a "sharp increase" in the number of people who are unemployed and hunting for jobs. Between June and August, an estimated 1.5 million people were out of work, while redundancies stood at 227,000.

It is expected that unemployment will rise further. As government imposes tough local lockdown rules that could lead to businesses closing their doors once again, more job losses may be on the horizon.

"The fallout from the COVID-19 recession is intensifying," says Paul Dales, chief UK economist at Capital Economics.

Bank of England Governor Andrew Bailey told the House of Lords Economic Affairs Committee that it is hard to estimate the amount of damage that will be done to the UK economy as the second wave of coronavirus hits, causing consumer behaviour to change and more businesses to go bust.

"It's very hard at the moment, I have to be honest with you, to put an estimate on how much scarring there will be," says Bailey.

Citibank analysis suggests that in the first half of 2021, the UK unemployment rate could reach 8.5% – a level that has not been seen since the early 1990s.

Without more generous government support, trade union body the TUC says that the UK is on the "precipice of an unemployment crisis".

JOB SUPPORT SCHEME: HOW WILL THINGS CHANGE AFTER FURLOUGH?

Workers affected financially by coronavirus restrictions forcing their workplaces to shut will receive at least 67% of their pay from the government under the new Job Support Scheme, which began on 1 November and replaces the furlough scheme that had been in place since March.

Under the new scheme, which will run for six months, employers will not have to pay the salaries of staff who are unable to work at businesses forced to close as a result of measures put in place to prevent the spread of COVID-19. Instead, the government will pay up to a maximum of £2,100 a month for each employee. To qualify, staff must be off work for a minimum of seven days.

The Job Support Scheme will also help employees returning part-time to firms that are permitted to open. To be eligible for support, staff will have to work at least a third of their hours. The government and the employer will split the remaining two-thirds of the employees' wages.

Closed or open, employers will still be required to pay workers' national insurance and pension contributions. The latest arrangement, which is more generous than what was offered under the original furlough scheme, will see the government provide a grant of up to £3,000 to assist with those contributions.

The scheme will run for six months from 1 November and will then be up for review.

Besides the Job Support Scheme, other help is on offer. The government will offer firms: a grant for apprentices taken on until the end of January 2021 – £2,000 for under-25s or £1,500 for over-25s; £1,500 for any unemployed 16- to 24-year-old given a work placement of six months; and £1,000 for every furloughed employee kept on until at least the end of January.

FINANCIAL REPORTING

IMPLICATIONS OF THE PANDEMIC FOR GOING CONCERN

The coronavirus pandemic has changed dramatically the circumstances in which many businesses operate, and some are under threat.

In the Financial Reporting Faculty's latest guide, *Coronavirus: Going concern considerations – a guide for FRS 105 preparers,* we summarise management's responsibilities for assessing going concern and the associated practical implications for financial reporting, in light of the coronavirus pandemic. It is aimed primarily at preparers of micro-entity accounts in accordance with *FRS 105 The Financial Reporting Standard applicable to Micro-entities*. Larger entities should refer to *Coronavirus: Going concern considerations – a guide for FRS 102 preparers*.

You can find more information about the impact of the pandemic on the accounts by visiting the dedicated financial reporting pages on the coronavirus hub, at icaew.com/coronavirus/financialreporting

RENT CONCESSIONS RELATED TO COVID-19

In August this year, the IASB issued amendments to IFRS 16 Leases, which permits an entity to apply a simplified accounting treatment to some lease modifications in the accounts of the lessee.

This amendment has now been endorsed by the EU and is therefore available to UK preparers for the current reporting period. A similar option for UK GAAP reporters is expected to be published by the FRC before the end of October.

LATEST IMPROVEMENTS IN CORPORATE REPORTING

The UK's Financial Reporting Council (FRC) has a number of initiatives designed to help improve the quality of corporate reporting.

IFRS 15 and IFRS 16:
Ahead of the next reporting cycle for financial statements, the FRC has published reviews into the reporting of revenue and leases identifying a number of critical areas where companies need to improve their reporting. Both reviews emphasise the importance of clear, entity-specific disclosures to enable users to understand the implications for the business.

Section 172 statements:
Large companies are required to include a report on directors' Section 172 duty to promote the success of the company. Since this requirement came into effect for accounting periods beginning on or after 1 January 2019, there have been a variety of approaches.

The FRC's Financial Reporting Lab has published a set of tips intended to help companies consider what content to include in a Section 172 statement, how to present it and how to facilitate the process of preparing the statement.

The future of corporate reporting:
The FRC has published a discussion paper proposing a future for corporate reporting based on a principles-based framework. It outlines a blueprint for a more agile approach to corporate reporting which challenges existing thinking about how companies can more effectively meet the information needs of investors and other stakeholders. The proposals are designed to be tested with stakeholders and stimulate the conversation about what the future of corporate reporting should look like. Comments are invited by 5 February 2021.

You can find out more about these initiatives at frc.org.uk

CONSULTATION PAPER ON GLOBAL SUSTAINABILITY STANDARDS

The Trustees of the IFRS Foundation have published a consultation paper to assess demand for global sustainability standards and, if demand is strong, assess whether and to what extent the Foundation might contribute to the development of such standards.

Amid heightened focus on environmental, social and governance matters, developments in sustainability reporting and increased calls for standardisation of such reporting, the Trustees are now seeking stakeholder input on the need for global sustainability standards and gauging support for the Foundation to play a role in the development of such standards.

The consultation is open for comment until 31 December 2020.

Find out more at ifrs.org