# TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

TAX

## INFORMATION REQUIRED WHEN SIGNING UP TO MTD FOR VAT

ICAEW has published guides to signing up to Making Tax Digital (MTD) for VAT for businesses and agents. The following additional detail concerning the information that is required when completing this process may be of assistance.

Businesses signing themselves up to MTD need to have an:

- email address;
- VAT registration number and details from the VAT certificate and last return submitted to HMRC;
- and an additional identifier from:
  - sole traders – national insurance number;
  - limited companies or registered societies – company registration number and Corporation Tax Reference Number. The company registration number must contain seven digits and may need to be prefixed with a zero so that it matches the format used by Companies House (the leading zero does not always appear on the Certificate of Incorporation);
  - limited partnerships – company registration number, unique taxpayer reference (UTR) and the postcode where the business is registered for self assessment; or
  - general partnerships – UTR and the postcode where the business is registered for self assessment.

## LOAN CHARGE REVIEW

The chancellor, Sajid Javid, has commissioned an independent review of the Disguised Remuneration Loan Charge. This is to be led by Sir Amyas Morse, former chief executive and comptroller and auditor general of the National Audit Office.

The review will focus on the impact of the loan charge on individuals who have directly entered into disguised remuneration schemes. It will report and provide independent recommendations by mid-November 2019.

While the review is ongoing, the Loan Charge remains in force, in line with current legislation.

Government guidance for taxpayers who have settled their affairs or who are taking action can be found at tinyurl.com/BAM-LCR

### OTS PROJECT ON SIMPLIFIED REPORTING AND PAYMENT FOR THE SELF-EMPLOYED AND LANDLORDS

An Office of Tax Simplification (OTS) project is considering easier ways for the self-employed and landlords of private residential property to report their taxable income and pay their tax.

The OTS produced two online surveys to gather information about people's views on the current system and potential areas of improvement.

The project may prove to be the start of significant changes to the tax system as it affects the self-employed and landlords and has obvious links with MTD for income tax.

A scoping paper, outlining the details of the project, can be found at tinyurl.com/BAM-SE-taxreporting

### ICAEW RESPONDS TO THE CONSULTATION ON THE INTRODUCTION OF A DIGITAL SERVICES TAX

The Tax Faculty has responded to the digital services tax (DST) consultation, in particular the draft guidance and legislation published by HMRC on 11 July 2019. The response is published at ICAEW REP 87/19 and follows up on the earlier consultation document published on 7 November 2018, to which we responded as ICAEW REP 26/19.

The representation acknowledges the policy objective to address the current corporation tax rules, which can lead to a misalignment between the place where profits are taxed and the place where value is created within the digital economy. In particular, we appreciate the need to consider how the allocation of profits between countries could be more linked to the interaction and engagement with a user base. While a multilateral solution would be welcomed, we appreciate the balance between the need to take action now and finding comprehensive global agreement.

However, several concerns are raised in the representation, including the broader impact the measure could have on international trade and investment in what are already uncertain times. There is also a concern that smaller digital business (or indeed the end consumer) will simply end up bearing the cost of DST, which appears at odds with the policy objective.

### START DATE FOR THE EXTENSION OF OFF-PAYROLLING SHOULD BE DELAYED

The start date of amending the off-payrolling rules and extending it to the private sector should be put back to 6 April 2021 to allow all stakeholders – including HMRC – time to prepare on the basis of enacted legislation that provided certainty and resolves operational issues.

The ICAEW Tax Faculty expressed this view in its response (ICAEW REP 86/19) to HMRC's invitation to comment on draft legislation published in July 2019.

The draft legislation is intended to align the tax treatment for payments made for workers' services provided through intermediaries, where the client is a medium or large organisation in the private sector, with the tax treatment for payments made for workers' services provided through intermediaries where the client is a public sector organisation.

The proposed legislation is ambiguous and falls below our principles that tax legislation should be simple, certain and properly targeted. The draft legislation contains gaps that HMRC is having to address by providing extensive guidance. Onerous responsibilities are allocated in an uncertain way.

It is unlikely to enhance compliance with the existing IR35 legislation that HMRC has struggled to enforce effectively since 2000.

The draft legislation highlights that this is a sticking plaster solution to an underlying policy problem that needs a long-term solution that does not impose excessive compliance burdens or incentivise one type of employment status over another.

The start date should be delayed until April 2021 to enable all stakeholders, including HMRC, to properly prepare on the basis for this change: this includes the need for the legislation to be improved, operational issues to be resolved and the final IT specifications to be published. In addition, further work needs to be done to improve the Check Employment Status Tool and for HMRC to publish further guidance.

Detail is key and too many operational points remain unresolved even though the public sector regime has been in force since April 2017. We are in separate discussions with HMRC on these points.

## 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**

### CAMPAIGN CONTINUES FOR FLEXIBLE WORKING

A new report claims that significant numbers of flexible working requests have been rejected by employers.

Based on a survey of 2,700 workers, the Trades Union Congress (TUC) discovered that, despite the right to request flexible working being enshrined in law, almost a third of applications (30%) failed.

In addition to the rejections, there was a widespread belief among workers – 58% of those asked – that flexible working arrangements were not available to them. That figure rose to 68% in the retail and care industries.

Requests can be denied if an employer believes there would be a legitimate negative effect to their business.

However, a Wildgoose survey of workers within 115 companies reported improved mental health in 39% of people who had been granted more flexible arrangements.

A private members' bill to require employers to introduce flexible working as standard, which was brought to parliament by Conservative MP Helen Whately in July, awaits a second reading.

The bill is supported by campaign group Flex for All, which includes the Fawcett Society and Pregnant Then Screwed among its members. The TUC announced it had also joined the group in September.

See tinyurl.com/BAM-TUCpoll

**STAFF MASKING MENTAL HEALTH ISSUES ON SICK DAYS**

Workers are taking sick days but pretending they have a physical problem to mask mental health issues. That is the finding of a survey by lawyers Slater and Gordon, who spoke to 2,000 workers.

Respondents had an average of 3.75 days absence relating to the state of their mental health. Conditions reported included depression and exhaustion.

More than half – 55% – of those surveyed said they lied about the reason for being off sick. Only 32% were truthful.

The motivation for concealing mental health arose largely from stigma: reasons given were perceptions that employers wouldn't understand or be supportive, feeling embarrassed and wishing colleagues not to know their business.

**AUTOMATION: OK BY US, SAY WORKERS**

An increasingly automated workplace is being embraced by employees.

So says recruitment firm Hays, which asked questions about the future of employment in its annual *What Workers Want* report.

Speaking to 14,500 individuals, Hays found that 92% of people working in organisations where automated practices were already embedded were embracing the change. Just 8% feared it. The figure was even 81% positive in organisations where no automation had yet taken place.

See the report in full at tinyurl.com/BAM-WWW

**COMMUTING HAS IMPACT ON GENDER PAY GAP**

The Office for National Statistics (ONS) has been analysing the gender pay gap – and found that women may be ditching higher-paid jobs far from home in favour of a shorter journey to work.

According to ONS studies, women spent on average 20% less time commuting than men last year.

The pay gap between men and women stood at 8.6% among those in full-time employment. However, it was calculated that women with a commute taking more than 50 minutes would be 30% more tempted to leave their job than someone with just a 10-minute journey. In men the difference rose to almost 24%.

Analysts suggested that one reason for the difference may be related to people having a family.

The ONS published its analysis in the *Annual Survey of Hours and Earnings*, available at tinyurl.com/BAM-ASHE

**FINANCIAL REPORTING FACULTY**

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

**IMPROVING CORPORATE REPORTING**

The Financial Reporting Council (FRC) has published its annual report for 2018/19 setting out its progress against commitments to tackle poor-quality audit work, boost enforcement resourcing and improve the quality of reporting.

During the year the FRC substantially revised the UK's Corporate Governance Code and consulted on an overhaul of the UK Stewardship Code with the objective of ensuring both Codes are fit for purpose, better aligned, and reflect today's challenges.

Work has also been undertaken in 2018/19 to prepare for the FRC's transition to a new, more powerful regulator, following Sir John Kingman's independent review.

The FRC has highlighted the key highlights for 2018/19 as:

- increasing enforcement resourcing by 25%;
- rolling out a revised UK Corporate Governance Code and consulting on an overhaul of the UK Stewardship Code; and
- establishing the Investor Advisory Panel to complement the FRC's existing stakeholder outreach activities with investors.

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