2025 SUMMER NEWS

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Tax takes a back seat

In the first six months of this Government, tax never seemed to be far from the headlines. The rumours of what taxes Rachel Reeves might raise in her first Budget got replaced by headlines about the increase in employers' National Insurance Contributions (NICs) and the protests by farmers about proposals to bring their businesses within the Inheritance Tax (IHT) net for the first time in a generation. Many of the rumours, of course, did not turn into reality, including the one that NICs would become chargeable on occupational pension contributions.

In recent months, tax seems to have been on the back burner, while tariffs and trade deals have dominated the news. All these things are of course linked, as the trade deals and tariffs will impact the UK GDP figures, which will in turn affect how much money the Government needs to raise through tax to meet its spending and fiscal objectives. It is likely that, come the autumn, tax will be very much back at the top of the news agenda.

The Government published a consultation in February on its proposals to restrict IHT relief for farming businesses. We devote the final page of this Newsletter to what was in that consultation, as the proposals do not just affect farmers, but all types of trading business, whether unincorporated or a limited company. The changes are not yet finalised, but if your business is affected, you should already be considering your succession planning strategy.

There have been a number of important tax cases recently, two of which are highlighted on page 3. One deals with tax residence, which is crucial to how much tax you pay. The appellant in the case saved £3.1 million in tax by being regarded as non-resident, but that decision could still be overturned in the Supreme Court.

The second case concerned dividend payments in a private company, which is an area fraught with anti-avoidance legislation. The article should be of interest to anyone with a stake in a family company.

Nothing stays constant in tax; we start page 2 with updates on two topics that we have covered in the recent past. It's a good time to remind you that, when trying to research tax matters on the internet, the articles are often out of date, so please don't rely on them for your personal tax planning!

On the same page, we mention a tax avoidance scheme that HMRC has 'spotlighted' as being ineffective. As a general rule, if a tax saving strategy has any complicated steps in it, it is probably too good to be true; certainly, don't get involved in it without taking independent advice.

One thing that does seem certain is that Making Tax Digital (MTD) Income Tax is going to be introduced (for those with turnover above £50,000, initially) from 6 April 2026. If you are a sole trader or landlord, do not underestimate how big a change this will be for how your business interacts with HMRC. If you have not already taken steps to prepare for it, you need to do so forthwith.

Tax is often complicated. We are here to help you deal with these complexities, so that you can pay the right amount of tax and avoid penalties for late filing of returns or late payment. Please get in touch if you have any questions or concerns about matters covered in this newsletter.

A couple of updates

Mandatory payrolling of benefits

In the Spring 2025 Newsletter, we explained that it would become compulsory to report most benefits through the payroll under 'Real-Time Information' (RTI) from April 2026. The Government recently announced that this will be delayed a year until 6 April 2027, giving those running payrolls more time to prepare.

This reporting will be through the Full Payment Submission (FPS), which is filed each payday and notifies salary and deduction information to HMRC. The FPS will show the benefits, the tax and the employer's Class 1A NICs due on the benefits.

HMRC expects that more data will need to be reported than currently, so will publish more information later in 2025 about the additional data items that will be added to the RTI reporting.

Note that there is still no date set for making the payrolling of accommodation and beneficial loan benefits mandatory.

Environmental and technical studies

In the Spring 2024 Newsletter, we mentioned a tax case where numerous pre-installation studies were carried out (costing £48m) to assess the best positioning for offshore wind turbines.

The company had included this expenditure, along with expenditure on the wind turbines themselves, as part of their qualifying expenditure for capital allowances. The Tax Upper Tribunal, though, decided that the expenditure on the surveys qualified for no tax relief at all. Its decision was based on earlier case law precedent and a strict interpretation of the relevant section in the legislation.

We commented at the time that the decision seemed to be contrary to the Government's policy of encouraging renewable energy. Indeed, at the October 2024 Budget, it was announced that the Government would have a consultation on this issue, with a view to perhaps amending legislation to enable such studies to obtain tax relief.

The good news is that the Court of Appeal has overturned the decision, meaning that the expenditure on the surveys qualifies for capital allowances. It has decided that expenditure '… on the provision of plant or machinery' encompasses the costs of design as well as installation. This extends to costs of studies that inform such installation or design, provided that the plant or machinery to which the expenditure relates is actually acquired or constructed (as was the case here).

Examples of the studies include those relating to landscape, seascape and visual assessment; ornithology and collision risk; noise; and telecoms and radar interference studies.

Subject to any appeal to the Supreme Court, this case has clarified that pre-installation surveys should normally be treated as part of the cost of the plant that is to be installed. Under current legislation, 'full expensing' would apply, meaning that the cost would be immediately deductible for corporation tax purposes.

If your business incurs similar costs before installing plant and machinery, they should now qualify for allowances. We can help clarify the position for you.

The big freeze continues

The Office for Budget Responsibility (OBR) published some interesting data at the end of March, within which was analysis of the impact of the freeze on tax thresholds.

The tax take (taxes as a share of GDP) had been relatively stable during the period from 2010/11 to 2019/20, being around 33.2%. However, it has risen significantly since then, as the last government put plans in place to raise taxes following the extra borrowing incurred during the pandemic. It is forecast to be 36.8% for 2025/26 and to peak at 37.7% in 2027/28.

The increase is largely due to a rise in receipts from income tax and NICs. Freezing personal tax thresholds (a policy being continued under the Labour Government) appears to have played a significant part in this.

The personal allowance (PA), above which income is taxable, together with the point at which individuals begin to pay tax at the higher rate of 40%, have been frozen at £12,570 and £50,270 respectively since April 2021. (Note that, although the personal allowance is the same UK-wide, Scotland has different tax thresholds to the rest of the UK.) Rachel Reeves has said that the freeze will continue until April 2028.

Had those thresholds been adjusted in line with inflation, the OBR says that the PA for 2025/26 would be £15,480 and the higher-rate threshold £62,080. The freeze is expected to raise additional tax revenues of £26.8bn for 2025/26 but has other consequences too.

The OBR estimates that frozen personal tax thresholds will mean, for 2025/26, an additional 3.4m people having to pay income tax and an additional 2.8m people having to pay income tax at the 40% rate.

More taxpayers, and more taxpayers with potential higher rate liabilities, is expected to place increased pressure on HMRC's services.

If you are someone who is new to paying tax or to paying it at higher rates, we can help you make sure that your tax affairs are fully compliant with the rules, so that you can avoid penalties and budget for your tax liabilities.

In the Spotlight

A few times a year, HMRC publishes a 'Spotlight'. These deal with tax planning schemes that HMRC has become aware of and believes do not work, due to anti-avoidance rules negating their effectiveness. In Spotlight 69, HMRC has warned against the use of a capital gains tax (CGT) avoidance scheme that involves an individual transferring their property business to a limited liability partnership (LLP), which is then put into members' voluntary liquidation (MVL).

The scheme is being marketed to landlords as a tax avoidance scheme and is intended to reduce or avoid CGT, stamp duty land tax (SDLT) and IHT. However, HMRC believes that the scheme does not work as intended because of various tax regulations and rules, including some anti-avoidance enacted in Finance Act 2025 concerning the liquidation of an LLP.

HMRC's advice to anyone using the scheme is to withdraw from it and settle their tax affairs by emailing HMRC.

If you have been persuaded to use a tax avoidance scheme and are concerned as to whether it will be challenged by HMRC, please contact us to discuss the best way forward.

Timing of dividend payments

Family companies will often have several shareholders, perhaps of diverse personal financial circumstances. Some may already have enough income to live comfortably, others may not. Some may be higher or top rate taxpayers, while others may have little or no income or be well within the basic rate income tax band.

To pay different levels of dividend to different shareholders, you normally need to have in place an 'alphabet share' structure. This involves each shareholder having a different class of share, labelled A shares, B shares, C shares, etc. However, there is a lot of anti-avoidance legislation that can tax such dividends as employment income, where they are seen as being a reward for services performed for the company. ***Specialist advice should be taken before setting up such a structure.***

When there is only one class of share in issue, any dividends declared are payable on a *pro rata* basis (i.e. the dividend per share must be the same for all shareholders). If a shareholder does not need their dividend, they can execute a dividend waiver before the dividend is declared, which will not impact on the right of the other shareholders to receive their entitlement. However, note that:

- among the conditions for a valid dividend waiver is that it must be executed under deed, which requires a member of the Law Society or the Bar to validate it; and
- HMRC may challenge whether the waiver (even if legally drawn up) is effective for tax purposes, particularly if the overall scenario is seen as a scheme or arrangement to gift income from one person to another (including if the shareholders are spouses).

A recent case at the Upper Tax Tribunal has examined another type of planning with dividends, which does not involve alphabet shares or dividend waivers. To understand what the shareholders were trying to achieve, we need to go back to March 2016 (which seems a lifetime ago in political and economic terms). George Osborne had announced that the dividend tax credit system was being abolished from 6 April 2016. Surreptitiously, this change was going to put up effective dividend tax rates by about 7.5 percentage points; for a top rate taxpayer, it was rising from 30.56% to 38.1%.

This is the backdrop to the case, in which two brothers managed to save a large amount of tax by careful planning of when they received dividend payments. With only one class of share in issue (which they owned equally), there was no opportunity to pay different levels of dividend to each shareholder. Their strategy relied on the fact that an interim dividend is 'paid' for income tax purposes when it is received by the shareholder; in contrast, a final dividend is 'paid' when the motion proposing the dividend is passed by the shareholders (unless the motion specifies a later payment date).

Case details

In March 2016, the company resolved to pay an interim dividend of £40 million, split equally between the brothers.

It suited them to be taxed on the dividends in different tax years. One wanted his in 2016/17 (when he would be non-resident and thus not subject to tax on the dividend), whereas his brother wanted the dividend in 2015/16, when his effective tax rate was 30.56%, not 38.1%.

The latter brother's £20 million dividend was paid on 5 April 2016; the other brother's dividend was not paid until December 2016. HMRC sought to tax the latter dividend on the earlier date, arguing that:

- the two dividends must be treated as being due and payable on the same date; and
- that date was the day on which the earlier dividend was paid to his brother.

The First-tier Tribunal (FTT) allowed the non-resident brother's appeal, finding that no debt was created for him by the earlier payment of the dividend to his brother. HMRC appealed to the Upper Tribunal which, although disagreeing with some of the FTT's legal interpretation, upheld the overall position that the non-resident taxpayer's dividend did not become taxable when his brother received his dividend during the previous year.

Unless overturned by the Court of Appeal, this decision confirms that family-owned companies can vary the timing of interim dividends to minimise the tax liabilities of shareholders.

Please contact us if you want to discuss how the share structure and dividend policy of your family company might be made more tax-efficient.

Exceptional circumstances

Our statutory residence test sets limits as to the number of days you can spend in the UK in a tax year without being resident here for tax purposes. The rules are complicated, with the day-count threshold dependent on a number of factors, including whether or not you have been UK-resident in any of the previous three years and, in some circumstances, the number of 'ties' (e.g. home, family) that you have with the UK.

When counting up the days that someone has spent here, you can exclude up to 60 days where they are here because of 'exceptional circumstances'. This covers things like unexpected health issues (e.g. you are hospitalised following a bad heart attack, just before you were due to leave the UK) or the transport shutdowns during the pandemic.

An important point of clarification as to what constitutes exceptional circumstances has recently been given by the Court of Appeal. A woman claimed that the excess 5 days she spent in the UK were because of a moral obligation to care for her alcoholic and depressed sister, who had two young children. In allowing her appeal, the court said that an individual can be prevented from leaving the UK for various reasons, including a sufficiently compelling moral obligation. There is no requirement for departure to be a legal, physical or medical impossibility.

For the days to be excluded, the circumstances do not need to be rare within the context of human society as a whole; they merely need to be exceptional within the context of the individual's own life. The statute clearly anticipates serious illness and death as potential exceptional circumstances.

To determine whether events experienced by an individual are exceptional, those circumstances must be looked at in the round. In particular, the moral or societal obligations that the illness of a relative (or any other situation) imposes on the individual form part of the overall circumstances; they can and should be taken into account in considering whether the circumstances, as a whole, qualify as exceptional.

Whether or not you are resident in the UK will have a massive impact on your income tax, CGT and (following the changes that took place on 6 April this year) IHT position.

Don't leave anything to chance: if you are looking to emigrate, discuss your plans with us so that we can make sure you don't inadvertently remain UK resident.

Inheritance Tax – Changes for farmers and other trading businesses

Since 1992, farming and other unincorporated or unquoted **trading** businesses have benefitted from 100% agricultural property relief (APR) or 100% business property relief (BPR) when Inheritance Tax (IHT) charges would otherwise apply (e.g. on death of the owner or when such property is transferred into a trust). There is no cap on the value that qualifies. Note, however, that non-trading businesses (e.g. investment company shares or rental property) do not qualify for any relief at all.

Shares traded on the London Stock Exchange's Alternative Investment Market (AIM) are regarded as unquoted for most tax purposes, including BPR. Thus, AIM shares in any qualifying trading company can qualify for 100% relief, too.

There are a number of conditions for the reliefs to apply, including that the transferor must normally have owned the property for a minimum of two years immediately before the transfer. For APR, this is extended to 7 years for those who do not farm the land themselves.

Following the October 2024 Budget announcement that, from 6 April 2026, these reliefs will be restricted, there has been a lot of complaint, particularly from the farming community, about the proposals.

On 27 February 2025, the Government published a consultation on the proposed changes and how they see them working in practice. Much of it concerns the complex tax rules of trusts (which we will not cover here), but some of the other key points are outlined below.

New £1m limit for 100% relief

For charges arising **on or after 6 April 2026,** 100% relief for qualifying business and agricultural assets will continue for the first **£1m** of combined business and agricultural property, but only 50% relief will apply thereafter.

If the total of qualifying property to which the 100% relief could potentially apply comes to more than £1m, the new allowance will be split proportionately across the qualifying property. For example, if a deceased owned shares in a family trading company worth £1.5m and farmland worth £3.5m (a ratio of 3:7), the 100% allowance for the business property and the agricultural property will be £300,000 and £700,000 respectively.

AIM shares

The rate of BPR is reducing from 100% to 50% from the same date for shares quoted on the AIM and similar 'unlisted' markets of recognised stock exchanges. From 6 April 2026 onwards, **no part of the value** of such shares will attract relief at 100%.

AIM shares will not use up any part of the post-5 April 2026 £1m allowance outlined above.

Businesses owned by spouses

Unlike the IHT nil rate band (currently £325,000) and residence nil rate band (currently £175,000), the £1m allowance is **not** going to be transferable between spouses. Unless this changes before the new rules come in, spouses owning businesses jointly is likely to become more common.

Transfers affected

The new limits cover the following types of transfer made by individuals:

- transfers on death;
- lifetime gifts made to other individuals during the seven years prior to death, which become chargeable to IHT because the owner failed to live long enough after making the gift; and
- lifetime transfers where there is an immediate charge to IHT (e.g. when business or agricultural property is gifted into trust).

Example

On 15 March 2025, Peter gifts £3.2m of shares in an unquoted trading company to his daughter Anita. There will be no IHT on this gift if Peter survives 7 years.

Unfortunately, he dies on 11 October 2027 (i.e. about 2.5 years later). The gift therefore is subject to IHT. The chargeable event is the death, which occurs after 5 April 2026, so the new regime will apply. Thus, relief of 100% will only apply to the first £1m of the gift, with 50% relief being available on the remaining £2.2m of value transferred.

Unlike under the current regime, therefore, £1.1m of value will be chargeable to IHT. No changes in IHT rates have been announced, so the tax would be 40% of any of the £1.1m value above Peter's available nil rate band at death.

Note that this example assumes that Anita still owns the shares at the date of Peter's death; if not, no BPR would be available at all.

Instalment option

Inheritance tax is normally due 6 months from the end of the month of death (i.e. 1 May 2028 in the above example), although those dealing with the estate may need to pay it earlier in order to obtain a grant of probate, which enables them to start distributing the assets.

IHT on certain illiquid assets, such as land and buildings and some unquoted shares, can be paid in 10 equal annual instalments. In some cases (e.g. IHT on a residence), interest on the remaining outstanding balance is incurred each year under the instalment option. This can increase the total payments by almost 50% when late payment interest rates are high (they are currently 8.25% p.a.).

The good news is that the government has confirmed that, under the new regime, where any IHT arises on qualifying agricultural or business property:

- the instalment option will be available; and
- the instalments will be interest-free.

Thus, only if you miss a payment date will any interest be incurred.

Example

Fazal has owned qualifying shares in an unquoted trading company for many years. He dies on 15 August 2027, leaving them to his younger brother, Ian. The shares have a value of £1.6m.

He also leaves AIM shares worth £400,000 and non-business property valued at £850,000 to his sister, Anna.

The AIM shares qualify for BPR at the lower rate of 50%. They do not reduce the £1m allowance available for qualifying property attracting relief at the higher rate of 100%.

The full £1m allowance is therefore available to be set against the value of Fazal's trading company shares. Since the value of the shares exceeds £1m, relief at the lower rate of 50% will apply to the excess value.

Chargeable estate

	£	£
Unquoted trading company shares		1,600,000
Less: BPR		
100% x 1,000,000	1,000,000	
50% x 600,000	300,000	
		(1,300,000)
		300,000
AIM shares	400,000	
Less: BPR 50% x 400k	(200,000)	
		200,000
Other assets		850,000
Chargeable estate		1,350,000

Tax calculation

	£
On first 325,000 @ 0%	-
On next 1,025,000 @ 40%	410,000

- Fazal's average estate rate is 410,000/1,350,000 x 100 = 30.3704%.
- The IHT attributable to the transfers of the unquoted trading company shares and the AIM shares is 30.3704% x (300,000 + 200,000) = £151,852.
    - This can be paid by 10 equal annual instalments, starting on 1 March 2028.
    - These instalments are interest-free if paid on the due date.
- The IHT attributable to the other assets (30.3704% x 850,000 = £258,148) is due in full on 1 March 2028.

Conclusion

If enacted in their current form, these IHT changes will impact any farming or trading business of significant value. You should make sure that your will is updated to take account of this new regime and also consider any steps that you might take to reduce potential liabilities, such as making lifetime gifts while you still have (hopefully) many years to live.

We are happy to discuss all these matters with you and to make sure you get the specialist advice you need.