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Tax Bites

Welcome to the latest edition of RPC's Tax Bites - providing monthly bite-sized updates from the tax world.

As always, if there are any areas you would like more information on (or if you have any questions or feedback), please let us know or get in touch with your usual RPC contact.

News



Further extension to UK Common Reporting Standard compliance rules

Regulations have been made to extend the International Tax Compliance Regulations 2015 (SI 2015/878) (the **Compliance Regulations**). The Compliance Regulations, among other things, require UK financial institutions to report information regarding certain non-UK account holders to HMRC for exchange under international arrangements relating to the Common Reporting Standard (**CRS**). The Compliance Regulations had applied to arrangements relating to the CRS entered into as at 19 April 2020. The extension regulations (which came into force on 14 May 2021) extend this date to 20 April 2021.

The Compliance Regulations have been extended before, so further extensions are likely.



Mini umbrella company fraud linked to UK test-and-trace

Following allegations in the media that link test-and-trace employers to mini umbrella companies (**MUC**) in supply chains, HMRC has published **guidance** on the issue.

HMRC is warning businesses which either place or use temporary labour to be aware of the potential dangers posed to their business by MUC fraud in their supply chain.

The guidance includes a number of tips on how individuals can protect themselves from getting involved in MUC fraud. HMRC also list a number of warning signs such as the use of unusual company names, unrelated business activity, foreign national directors, movement of workers and short-lived businesses. The fraud is primarily based around the abuse of two government incentives aimed at small businesses, the VAT Flat Rate Scheme and the Employment Allowance, but this type of fraud can also result in the non-payment of other taxes such as PAYE and National Insurance.



HMRC reissues CEST tool guidance

HMRC has published updated **guidance** on its 'check employment status for tax' (**CEST**) tool. This reflects changes to the off-payroll working rules brought in on 6 April 2021. Hirers, agencies and workers can use the CEST tool to establish an individual's employment status and decide whether the off-payroll rules apply to their situation.

The guidance confirms that HMRC will stand by worker status determinations provided by CEST, so long as the information entered into the tool was correct and accurate.



Updates to TRS guidance

HMRC has published updated **guidance** on the rules for registering a trust using the Trust Registration Service (**TRS**).

New rules, introduced on 6 October 2020 as part of the UK's implementation of the fifth Money Laundering Directive (**MLD**), extended the scope of the register, although trustees cannot register trusts under the new rules until later in 2021 when the new TRS is ready. The deadline for registrations was previously going to be 10 March 2022, but HMRC has confirmed that trustees will have approximately 12 months to register from when the new service is ready to accept registrations.

Case reports



Euromoney – Tribunal considers 'main purpose' test

In *Euromoney Institutional Investor PLC v HMRC* [2021] UKFTT 0061 (TC), the First-tier Tribunal (**FTT**) upheld the taxpayer's appeal, finding that the avoidance of liability to tax was a purpose, but not the main purpose, or one of the main purposes, of the relevant arrangements, for the purposes of section 137(1), Taxation of Chargeable Gains Act 1992 (**TCGA**).

The evidence before the FTT demonstrated that Euromoney would not have substituted preference shares for cash if that change had jeopardised the deal. The tax at stake was not significant, relative to the overall transaction value, and Euromoney did not invest significant effort in exploring the various tax consequences. The FTT concluded that the anti-avoidance rules contained in section 137 did not deny reconstruction relief under section 135.

Although this is clearly an important decision on the meaning of 'main purpose' in the context of section 137(1), it may be of wider relevance as there are a number of other anti-avoidance provisions in the tax code which require an assessment of whether the main purpose, or one of the main purposes, of the arrangements entered into by a taxpayer was the avoidance of a liability to tax.

You can read our commentary on the decision [here](#).



Inmarsat Global – Upper Tribunal confirms successor company not entitled to capital allowances incurred by its predecessor on satellite launch costs

In *Inmarsat Global Ltd v HMRC* [2021] UKUT 59 (TCC), the Upper Tribunal (**UT**) upheld the FTT's decision that a company was not eligible for capital allowances in relation to expenditure incurred by its predecessor on launching satellites into space.

This decision provides useful guidance on how the courts are likely to approach cases in which capital allowances on leased assets are sought. In addition to considering the deeming provisions in sections 61(4) and 78(1), Capital Allowances Act 1990, the decision provides a helpful summary of the general principles to be applied when construing deeming provisions in statutes.

You can read our commentary on the decision [here](#).



Bennedy's Developments – Tribunal allows taxpayer's appeal for late filing of ATED return

In *Bennedy's Developments Ltd v HMRC* [2021] UKFTT 21 (TC), the FTT has allowed the taxpayer's appeal against daily penalties for late filing of an Annual Tax on Enveloped Dwellings (**ATED**) return, issued under paragraph 4, Schedule 55, Finance Act 2009, but dismissed its appeal against a late filing penalty in respect of the same return, issued under paragraph 5, Schedule 55.

This decision provides helpful confirmation that in order to impose daily penalties under paragraph 4(1) in respect of the late filing of an ATED return, HMRC must issue a notice under paragraph 4(1)(c) prior to the 90 days period during which the daily penalty accrues. This may assist taxpayers where, as in this case, both the taxpayer and HMRC were unaware of the taxpayer's filing obligation prior to the filing of a late ATED return.

The decision also confirms that the position in relation to ATED returns is

the same as the position in relation to Non Resident Capital Gains Tax (**NRCGT**) returns, in respect of which HMRC agreed, in 2017, to withdraw/no longer issue daily penalties to people who had filed late NRCGT returns in situations where the notice required by paragraph 4(1) (c) had not been issued until after the expiry of the 90 day period.

You can read our commentary on the decision [here](#).



And finally...

As part of the acclaimed Disputes Yearbook, Legal Business interviewed Michelle Sloane, a partner in our tax disputes team, in relation to the criminal offences of failure to prevent the facilitation of tax evasion. You can read her interview [here](#).

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