

# TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

## TAX



### DELAYS TO R&D CLAIMS

ICAEW members have reported considerable delays in HMRC's processing of research and development (R&D) claims, affecting both small and medium-sized enterprises' R&D relief and R&D expenditure credit (RDEC) claims. The Tax Faculty understood that the backlog was about four months so raised the issue with HMRC and has received the following response:

"A combination of recent staff losses and very high volumes of claims has meant that we have been unable to turn around claims as quickly as we would like. We're constantly reviewing our processes to manage peaks and we're currently taking the following actions to reduce delays:

- A recovery plan is in place to bring payable tax credits back on track, while tackling the backlog of RDEC payments.

- We have redeployed staff from other work areas and recruited new staff to speed up processing and payments.
- We are committed to keeping agents updated on the latest position, with a weekly update to Research and Development Consultative Committee members. We have also introduced updated auto-response messaging to emails sent to the R&D mailbox to keep our customers informed. These improvements are beginning to take effect."

### NO-DEAL BREXIT? POTENTIAL CHANGES TO DEDUCTION OF TAX ON INTEREST, ROYALTIES AND DIVIDENDS REQUIRE CONSIDERATION BY UK PLC

We would like to remind readers of guidance published earlier this year by HMRC about possible changes to deduction of tax on interest, royalties and dividends in a no-deal Brexit scenario (see [tinyurl.com/BAM-NoDeal](https://tinyurl.com/BAM-NoDeal)).

In a no-deal Brexit, some EU member states may start to deduct tax from interest and royalty payments being made to UK recipients.

Currently, the EU Interest and Royalties Directive (IRD) allows EU companies to make certain interest and royalties payments to associated companies and permanent establishments within the EU without needing to deduct tax. In a no-deal Brexit, from 11pm UK time on 31 October 2019, the IRD will no longer apply to the UK.

The guidance explains which payments/receipts will continue to be made gross and which will now have tax withheld. It varies from country to country and in some cases there are limits.

#### **Payments from the EU maybe covered anyway**

Regardless of the IRD, under UK domestic law and existing double taxation agreements (DTA) with individual EU member states it is possible, quite separately, to claim full or partial exemption, or claim back some or all of the tax paid. So there may be other sources of help that could already apply.

HMRC guidance explains:

"Often interest and royalty payments that are exempt from domestic withholding taxes under the IRD are also exempt under the DTA. For example, payments made to the UK from France, Germany or Spain.

"The amount of tax deducted will depend on the double taxation agreement between the UK and the EU member state. You should check the terms of the DTA between the UK and the EU country where the person paying the interest or royalties is resident."

#### **Payments from the UK to the EU**

This HMRC guidance also covers UK and EU companies that have a permanent establishment in the UK, which make payments of interest and royalties to associated companies in the EU. Although it will not be necessary to start deducting tax from these payments as existing law covers this already, some entities will need to take action and this is explained in the HMRC guidance.

#### **Dividends**

The guidance also covers dividend payments between UK and EU entities.

UK law does not impose an obligation to deduct tax from dividends, so Brexit currently has no impact on dividends paid by UK companies to companies resident in the EU.

However, some EU countries may start to deduct tax from dividends paid by EU subsidiaries to UK parent companies.

#### **CARBON BORDER TAX ON EU FLIGHTS?**

The agenda of new EU Commission president Ursula von der Leyen includes a proposal for a new European carbon border tax.

Carbon border taxes are already beginning to proliferate at a national level and Germany is considering an increase to its German aviation tax as an interim measure while a European approach to the issue is agreed.

In July 2019, a new eco-tax was announced by French transport minister Elisabeth Borne. The French tax is expected to raise €140m from 2020 through charges of €1.50 for flights within France or the European Union, €3 for economy flights out of the EU, €9 for intra-EU business class and up to €18 for business class tickets out of the EU. Transit flights will not be taxed. The French are also expecting to raise an additional €140m from 2020 through reducing tax benefits on diesel for trucks.

EU member states are free to tax domestic and intra-EU flights under the 2003 Energy Tax Directive, but so far, very few countries (including Germany, France, UK and Sweden) have done so.

#### **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**

#### **HOTLINE TO ADVICE ON REPORTING SEXUAL HARASSMENT**

A new legal advice hotline has been set up to offer women better access to advice around equality rights in the workplace and reporting harassment.

The sexual harassment at work legal advice line is run by the charity Rights of Women, funded by Time's Up UK's justice and equality fund, managed by Rosa, the UK Fund for Women and Girls. Two female lawyers will be available to take calls. A limited service is being offered to begin with, while the organisations involved recruit and train more volunteers.

The advice line was launched during a campaign fronted by actress Emma Watson.

The launch comes in the wake of a report published by the government's Women and Equalities Committee on existing equalities legislation. It found that the requirement for victims to prove discrimination had taken place was not working, and that the burden of proof would be better placed on employers.

#### **WHICH SECTOR TOPS THE PENSION POT LIST?**

Finance and insurance companies are putting the highest contributions aside for their employees, according to findings from analysis of governmental pensions data.

In the region of 9.5% was paid on an average salary of just over £30,000 in the sector, followed by the education sector on 9.3%. The lowest were 2% and 2.1% respectively in agriculture and hospitality – despite the fact it has been mandatory for all employers to contribute 3% to employees'

pensions since the spring (except where an employee has requested not to be enrolled).

### EMPLOYMENT PODCAST WITH HR PROFESSIONAL

Are you looking for regular bite-size updates on how to run the human side of your business? If you struggle to make time for essential continuing professional development (CPD) on this topic, you could try out Daniel Barnett's Employment Law Matters podcast.

Each episode lasts no more than 10 minutes and dips into a hot area for human resources. Recent topics covered include employee suspension, holiday pay, giving references and social media usage. The sessions are available via popular streaming services and online at [tinyurl.com/BAM-EmpLaw](http://tinyurl.com/BAM-EmpLaw)

### TIME TO BRUSH UP WITH ACAS

There is a wealth of employment-related e-learning resources available from the Advisory, Conciliation and Arbitration Service (Acas).

Each free, online course contains theory, practical case study, interactive questions and a test. The modules are said to be particularly suitable for managers, supervisors and those responsible for improving business or operational performance.

The wide range of topics covered includes disability and reasonable adjustments, discipline and grievance procedures, performance management and workplace investigations.

Individuals can set up a free training account via [elearning.acas.org.uk](http://elearning.acas.org.uk) and work through any modules of interest. Acas e-learning can also be set up within company intranet systems.

Alternatively, many of the same topics, and more, are covered during full- and half-day practical training sessions with Acas representatives up and down the country. For a list of sessions, dates and times, and to book, visit [obs.acas.org.uk](http://obs.acas.org.uk)

Businesses can also book tailored workshops for their workplace with Acas. This may be with a view to

addressing workplace conflicts or dealing with organisational change, for example. According to Acas, in-company support such as this can lead to improved profitability and higher staff retention.

### FINANCIAL REPORTING FACULTY



**YOU CAN FIND OUT MORE ON THE LATEST FROM THE FINANCIAL REPORTING FACULTY AT [ICAEW.COM/FRF](http://ICAEW.COM/FRF)**

### ACCOUNTING POLICY DISCLOSURES

The International Accounting Standards Board (IASB) has published proposed narrow-scope amendments to IAS 1 *Presentation of Financial Statements* and IFRS Practice Statement 2 *Making Materiality Judgements* to help companies provide useful accounting policy disclosures to users of financial statements.

IAS 1 requires companies to disclose their 'significant' accounting policies. The IASB is proposing to replace the reference to 'significant' with a requirement to disclose 'material' accounting policies to clarify the threshold for disclosing information.

The IASB is also proposing to add guidance to IAS 1 to help companies understand what makes an accounting policy material and to update IFRS Practice Statement 2 by adding further explanations and examples to help companies apply the concept of materiality in making decisions about accounting policy disclosures.

The Exposure Draft *Disclosure of Accounting Policies* is open for comment until 29 November 2019.

See [tinyurl.com/BAM-Narrow](http://tinyurl.com/BAM-Narrow)

### TECHNOLOGY IN CORPORATE REPORTING

Listen to ICAEW's Financial Reporting Faculty as they talk to the Financial Reporting Council's Financial Reporting Lab to discuss its projects on the role of technology in corporate reporting in this 20-minute webcast. The Bitesize Briefing will cover:

- why technology hasn't worked in the past;
- why today is different; and
- the role of XBRL, blockchain and artificial intelligence.

The webinar will take place on 4 October at 2pm. To register, visit [tinyurl.com/BAM-Bitesize](http://tinyurl.com/BAM-Bitesize) ●