

Tax update

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1. General

1.1 HMRC consults on taxpayer protection and repayment agents

A consultation on consumer protection has been opened, following a rise in complaints about unscrupulous repayment agents, and taxpayers paying high fees.

HMRC has opened a consultation on consumer protection issues for taxpayers who use a repayment agent to claim a tax repayment. This is part of the campaign to raise standards in the market for tax advice. It is seeking views from individuals, tax agents, professional bodies, and other groups.

This has been opened in response to a rise in complaints about repayment agents. Issues have included taxpayers not realising that they are dealing with an agent, rather than directly with HMRC, taxpayers not understanding terms and conditions, and taxpayers unintentionally assigning the benefit of their repayment to an agent. Many claims have also been invalid.

HMRC is looking for views on possible protective measures, including restrictions to the use of assignments, requiring repayment agents to register, and requiring repayment agents to display specific information to potential clients.

The consultation will close on 14 September.

www.gov.uk/government/consultations/raising-standards-in-tax-advice-protecting-customers-claiming-tax-repayments

1.2 Information notice upheld

The FTT has confirmed that an information notice used by HMRC to seek information about a remuneration trust used by the taxpayer was valid, subject to minor variations.

The taxpayer was a company that used a remuneration trust to reward employees. HMRC investigated whether or not PAYE and NICs had been underpaid. As part of this investigation, an information notice was issued that included demands for details of how the company had come to use the remuneration trust, correspondence about it, and details of payments.

The taxpayer challenged these, as assessments for PAYE and NICs had already been issued, so HMRC should only be looking at the amount of the assessment. The FTT disagreed, holding that the information was reasonably required.

One Call Insurance Services Limited v HMRC [2022] UKFTT 184 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2022/ukfft_tc_2022_184.html

2. Private client

2.1 HMRC nudge letters to non-filers

HMRC is writing to wealthy taxpayers who have failed to respond to a notice to file a tax return. Initially it will focus on those who filed returns for the years before and after.

Taxpayers who were issued with a notice to file a tax return in any of the tax years from 2017/18 to 2019/20, and did not submit one, may receive a letter from HMRC's wealthy external forum. These letters are targeted at those who have submitted tax returns in years either side of those in question. The taxpayer will be given until 22 August to submit the missing returns or to contact HMRC. If they fail to do so determinations will be issued. Penalties and interest will apply to the late returns.

www.tax.org.uk/hmrc-to-pursue-those-wealthy-individuals-with-missing-tax-returns

2.2 Partial win for taxpayer on high income child benefit charge penalties

The FTT has upheld penalties for late payment following overclaiming of the high income child benefit charge (HICBC), as the taxpayer had no reasonable excuse. The penalties for late filing were, however, invalid.

The taxpayer's partner claimed child benefit for their twin children. Five years later, HMRC wrote to the taxpayer about child benefit and the change in his circumstances. He then registered for self-assessment and filed tax returns for three tax years, and was issued with late filing penalties.

He appealed these, on the grounds that he had made an honest mistake and did not have the funds to pay penalties, having got into debt to pay the tax bill.

The FTT found for the taxpayer on the late filing penalties, as an error in the HMRC systems meant that they could not prove they had been validly issued. It upheld the late payment penalties, as the taxpayer should have looked into his obligations around the HICBC.

Russell v HMRC [2022] UKFTT 185 (TC)

www.bailii.org/uk/cases/UKFTT/TC/2022/ukfft_tc_2022_185.html

2.3 Taxpayer loses appeal on qualifying years for state pension

The FTT has agreed with HMRC that a taxpayer only had 21 qualifying years of NICs, as there was no evidence to prove his claims of more.

The taxpayer was not aware of an issue until he first claimed his state pension, and received less than expected. After finding that HMRC had gaps in his contribution record he sent them the names of the employers for whom he claimed to have been working at those times.

He had worked as a chef in the UK and overseas, and was now living abroad, and in poor health. Only one extra year was identified in the HMRC records, taking him to 21 years. 30 years are required to qualify for a full state pension.

The FTT considered the quality of HMRC's record checks in detail, and dismissed the appeal. The taxpayer had not been able to show that there were any errors in the recording of his NICs, as he had no documentary evidence. He had accepted that in his industry some employers failing to pay NICs was an issue, though no findings were made against a particular party.

3. Tax publications and webinars

3.1 Tax publications

The following Tax publications have been published.

- [Business Rates: change is coming](#)

www.evelyn.com/insights-and-events

4. And finally

4.1 A dress code for tax protesters?

There are two approaches to tackle income inequality with taxation, which are not incompatible. One is to increase taxes on those with more, the other to cut taxes for those with less.

Following millionaires at the World Economic Forum asking to be taxed more, we feel it is an opportune time to bring out our favourite campaigner for the second. Do look away: it's Lady Godiva.

Yes; one of eleventh century England's most famous marital disputes was actually* triggered by the lady's concern for those oppressed by her husband's high taxes, and the famous ride's result was that he lowered them. In some versions, the tax in question is a toll on horses, which would explain the ride.

Whilst slightly tamer than the antics of the patron saint of tax avoiders, who, as regular *And finally* readers will know, rode a lion, her sheer dedication to making her point is an example to all those who campaign against injustice in tax. Now, where can we borrow a horse?

*Note: *And finally* has not conducted independent research, but naturally has full confidence in the *Flores Historiarum*.

www.bbc.co.uk/news/business-61549155

https://en.wikipedia.org/wiki/Lady_Godiva

**<https://smithandwilliamson.com/en/insights/weekly-tax-update-18-november-2020/>

https://en.wikipedia.org/wiki/Flores_Historiarum

Glossary				
Organisations		Courts	Taxes etc	
ATT – Association of Tax Technicians	ICAEW - The Institute of Chartered Accountants in England and Wales	CA – Court of Appeal	ATED – Annual Tax on Enveloped Dwellings	NIC – National Insurance Contribution
CIOT – Chartered Institute of Taxation	ICAS - The Institute of Chartered Accountants of Scotland	CJEU - Court of Justice of the European Union	CGT – Capital Gains Tax	PAYE – Pay As You Earn
EU – European Union	OECD - Organisation for Economic Co-operation and Development	FTT – First-tier Tribunal	CT – Corporation Tax	R&D – Research & Development
EC – European Commission	OTS – Office of Tax Simplification	HC – High Court	IHT – Inheritance Tax	SDLT – Stamp Duty Land Tax
HMRC – HM Revenue & Customs	RS – Revenue Scotland	SC – Supreme Court	IT – Income Tax	VAT – Value Added Tax
HMT – HM Treasury		UT – Upper Tribunal	LBTT – Land and Buildings Transaction Tax	

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Tax legislation is that prevailing at the time, is subject to change without notice and depends on individual circumstances. Clients should always seek appropriate tax advice before making decisions. HMRC Tax Year 2022/23.

We have taken care to ensure the accuracy of this publication, which is based on material in the public domain at the time of issue. However, the publication is written in general terms for information purposes only and in no way constitutes specific advice. You are strongly recommended to seek specific advice before taking any action in relation to the matters referred to in this publication. No responsibility can be taken for any errors contained in the publication or for any loss arising from action taken or refrained from on the basis of this publication or its contents. © Evelyn Partners 2022.