Contingency planning for Brexit – a checklist

In December, we posted a link to our guide to the Tax implications of Brexit.

Businesses should now be progressing their Brexit ‘audits’ to work out how they might be affected and starting to make contingency plans. ICAEW’s latest addition to our Brexit hub is the Brexit checklist which sets out a number of specific areas to consider.

Contingency planning takes each relevant area and then assesses whether to take action now, maintain a watching brief or choose to accept the implications with no action. We’ve stressed that even for implications that carry a net cost, there might still be opportunities for the business as a result of making the change. For example, switching suppliers might increase costs, but if the supplier is closer there could be opportunities to optimise the supply chain. This should all be assessed as part of the contingency plan.

Self assessment filing ahead of 31 January deadline reaches a new high

The number of self assessment (SA) tax returns filed by the 31 January 2018 deadline for 2017 returns has once again reached a new high. 10.7 million taxpayers submitted their return on time and 9.9 million of these were filed online. For those interested in statistics, this means that more than 92.5% of total returns were completed online. And of course it does also mean that over half a million tax returns remain unfiled.
‘Angela MacDonald, Director General for Customer Services, thanked customers for meeting the deadline and said:

It’s really fantastic to see that each year, more and more self assessment customers are getting ahead of the game and submitting their tax return before the 31 January deadline. But we’re not complacent, we want the number missing the deadline to be zero, and we’ll continue to adapt the process to make it easier and simpler for all our customers until every return is in on time and without avoidable errors.

If you’re one of the small number that missed the deadline, please submit your return now to avoid further penalties. We really don’t want penalties, we just want tax returns.’

ICAEW supports the ongoing drive to digitalise tax and tax returns. We note that the success of e-filing for SA has been achieved without mandation. There is instead an incentive in the form of a three month longer deadline for filing online, so carrot and not stick. In our view, Making Tax Digital (MTD) should be adopting the same approach and should be non mandatory until it has been shown to work.

Unfortunately, this year the SA system has been hampered by complexity as the underlying tax rules for the interaction of the personal allowance with the new exemptions for interest and dividends has created systems problems. We note that HMRC issued further exclusions shortly before the deadline. If taxpayers can’t rely on HMRC systems to calculate their tax correctly – and of course this affects commercial software too since that relies on HMRC’s system – we wonder whether HMRC’s underlying systems can be made ready to cope with MTD from 2019?

**Latest HMRC performance figures**

HMRC has published its performance data for the quarter to 31 December 2017.

**Telephone service**
The telephone service stats showed a welcome improvement over the disappointing results for the quarter to 30 September 2017. The average time taken to answer a call in the quarter was 4 minutes 20 seconds, an improvement over the 5 minutes in the previous quarter. Overall, the cumulative call waiting time in the nine months to 31 December 2017 was 4 mins 32 seconds, still below the 3 minutes and 54 seconds recorded for the year 2016/17. Against this, the percentage of calls that were not answered in the quarter increased from 12.8% to 14.5%, and for the year to date 12.9% of callers hung up compared to only 8.4% in 2016/17.

The performance of the Agent Dedicated Line (ADL) continues to be far better than the general lines. The average waiting time in the quarter was 7 seconds and all calls were answered within 2 minutes, so well done to HMRC for continuing to maintain a good record on the ADL. The performance of the employers’ helpline, while not as good as that of the ADL, showed an improvement in the quarter, down from over 4 minutes in the previous year to only 2 mins and 13 seconds in December 2017.

**Post handling**
Post handling continued to show an improved performance after a poor start in the first quarter of 2017/18. In the quarter to December 2017 86.6% of post was cleared within 15 days – the best quarterly figure for the 2017/18 and 2016/17 and above the 80% target. iForms are given priority and 95.3% were cleared within seven days, slightly above the target of 95%.

Note that processing of paper self assessment returns is not included within these statistics.

**Comments and feedback**
Taken overall the quarterly performance statistics showed a steadily improving position for 2017/18. This is welcome, but we should also mention that in its report into HMRC’s performance published on 12 January 2018, the Public Accounts Committee (PAC) questioned whether HMRC’s figures were a true reflection of the position. This is because times do not include listening to the recorded message before entering the queue and also because callers who hung up before joining the queue are counted as being successfully dealt with when this may not be the case. The PAC recommended that
HMRC should introduce a new set of measures that better reflect the actual experience of customers, and that the time spent in the automated telephony system should be included in the statistics.

How was it for you in the January filing season? How do your experiences compare with the above? We would welcome members’ comments on HMRC’s performance – please post them below.

New guidance on April 2017 domicile changes

As anticipated HMRC has now published its guidance on the deemed domicile changes which are effective from 6 April 2017.

A summary of what has changed
From 6 April 2017 all non UK domiciliaries who have been resident in the UK for 15 out of the previous 20 years will be deemed UK domiciled for all taxes. Previously, deemed domicile only applied to inheritance tax and that was after 17 out of 20 years resident in the UK.

Anybody born in the UK with a UK domicile of origin will be treated as UK domiciled as soon as they return and become resident in the UK, even if they have acquired a domicile of choice elsewhere.

The change in the domicile status of former non UK domiciliaries not only affects income and gains, which are now taxed on an arising basis, but also has an impact on accumulated income and gains from prior years which have not been subject to UK tax. Provisions have been introduced to smooth the transition, including the ability to cleanse mixed funds within a fixed two-year window. This means that funds made up of a mix of income, gains and original capital can be cleansed to give a pot of capital that can be remitted to the UK without a tax charge and a pot of income and gains that would trigger a tax charge if remitted.

There is also an impact on any offshore trusts set up while the settlor was non UK domiciled. Without protection the settlor would become liable for all the income and gains in the trust on an arising basis; but provided the gains and foreign source income remain within the trust there will be no tax charge for a protected settlement.

The HMRC guidance
This covers:

- Business investment relief
- Cleansing mixed funds
- Deemed domicile rules
- Remittance basis charges
- Residence, domicile and the remittance basis: RDR1
- Trust protections and capital gains tax changes
- Overseas workday relief (OWR): RDR4
- Inheritance tax deemed domicile rules

The Tax Faculty assisted with a review of the draft guidance at the end of last year and we are pleased to see that many of our suggested amendments have been adopted. The legislation is not easy to follow, so any help HMRC can give to provide clarity is welcome.

OTS review of inheritance tax

The chancellor has written to the Office of Tax Simplification (OTS) acknowledging its interest in the inheritance tax (IHT) regime and asking it to carry out a review.

The chancellor is particularly interested in proposals for simplification with a focus on technical and administrative issues, as well as practical issues around estate planning and disclosure. The review could also look at how the current gift rules interact with the wider IHT rules and whether the current framework distorts taxpayers’ decisions. Full details are in the chancellor’s letter to the OTS.
The terms of reference are to be agreed in the coming weeks. As yet we do not know the timetable.

There is no mention that the OTS is charged with increasing the tax take; indeed, that is not the OTS’s role. That said, it is to be expected that business property and agricultural property reliefs will be looked at to ensure they are hitting the intended target and not being abused.

The annual exemption of £3,000 and small gift relief of £250 have not been increased for many years, and while we have the potentially exempt transfer regime it could be argued they are not needed.

A good target for simplification has got to be the residence nil rate band introduced by the previous chancellor.

It is not clear how this review of IHT will tie in with the consultation on how to make the taxation of trusts simpler, fairer and more transparent announced in the Autumn Budget but hopefully there will be some overlap and joined up thinking. Previous attempts at simplifying IHT in trusts have not lead to changes as the proposals were in fact more complex than the existing regime.

**National minimum wage – get it right!**

On Easter Sunday, 1 April 2018, all the national minimum wage (NMW) and national living wage (NLW) rates will be going up.

NLW for those aged 25 and over will increase by 4.4% from £7.50 per hour to **£7.83 per hour** from April 2018.

NMW will increase as follows:

<table>
<thead>
<tr>
<th>Age Group</th>
<th>From April 2018</th>
<th>Current rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 to 24 year olds</td>
<td>£7.38 per hour</td>
<td>£7.05</td>
</tr>
<tr>
<td>18 to 20 year olds</td>
<td>£5.90 per hour</td>
<td>£5.60</td>
</tr>
<tr>
<td>16 and 17 year olds</td>
<td>£4.20 per hour</td>
<td>£4.05</td>
</tr>
<tr>
<td>Apprentices</td>
<td>£3.70 per hour</td>
<td>£3.50</td>
</tr>
</tbody>
</table>

Note that the rates change for the first pay period that begins on or after 1 April. So if this is in the middle of a pay period, the rates do not change until the beginning of the next pay period. For some people, for example those who are paid quarterly, it can be some time before the rate has to be paid if 1 April is in the middle of a pay period.

HMRC has told us that employers are more likely to be at risk of getting it wrong for workers paid at or slightly above minimum wage rates. Other common minimum wage errors include:

- unpaid working time – not paying all the hours worked by staff. For example, time spent travelling between work assignments or during training;
- deductions from a worker’s pay, or payments by workers to their employer for items or expenses that are connected with their job such as uniforms; and
- failing to apply the correct rate of pay for apprentices in their second year.

To find out more see the guidance [National Minimum Wage and National Living Wage](#) on the website of the Department for Business, Energy and Industrial Strategy.

It is important that employers understand the NNW rules so that employees receive at least the minimum pay they are legally entitled to. HMRC is stepping up enforcement and failure to pay the correct amount could result in financial penalties of 200% of the pay owed, the risk of being publicly named, and even the possibility of a criminal prosecution.
The new Customs Declaration Service starts in 2018

HMRC has published a press release – Getting ready for the Customs Declaration Service – about the new service which will start its phased launch in August 2018. This will affect businesses that import or export goods between the UK and non-EU countries.

The new Customs Declaration Service (CDS) will replace the ageing Customs Handling of Import and Export Freight (CHIEF) system, with all declarations taking place on CDS from early 2019.

How this will affect importers and exporters
If a trader imports or exports goods outside the EU, they or their agent will currently be using CHIEF to:

- process declarations for goods entering and leaving the UK or EU through ports and airports;
- calculate and pay the correct duty and taxes; and
- complete customs information electronically.

They will still be able to do these things on CDS, but there will be differences:

- they will need to sign into CDS on GOV.UK through a Government Gateway account;
- CDS will offer several new and existing services in one place; for example, traders will be able to view previous import and export data on pre-defined reports, check the tariff, apply for new authorisations and simplifications, and check their duty deferment statement; and
- online help will include self-service tools, guides and checklists.

Some additional information will be required for declarations in order to align with the World Customs Organisation Kyoto Convention, currently being implemented in the UK through the Union Customs Code (UCC):

- an audit trail of previous document IDs;
- additional party types, such as the buyer and seller;
- possible additional commercial references or tracking numbers; and
- ‘levelling’, ie a change between ‘Header’ and ‘Item’ for some data items.

To align UK customs data with international standards, there will also be changes to:

- location of goods identification (based on UNLOCODE);
- the warehouse type code list;
- item tax lines, including method of payment codes;
- unit of quantity codes (ISO);
- the way customs procedures are quoted; and
- the number of items on a declaration – CDS will allow a maximum of 999 items on a customs declaration instead of the current 99 items on CHIEF.

An updated tariff manual will be available in April 2018.

To keep informed about CDS, send your name and email address to communications.cds@hmrc.gsi.gov.uk to register for email updates.

HMRC publishes draft CCAB anti-money laundering guidance

On 31 January 2018 HMRC published the draft CCAB anti-money laundering guidance dated August 2017: see Anti-money laundering guidance for the accountancy sector

This guidance was sent to HM Treasury by the CCAB bodies last year for approval. It will be published as final once the Treasury has approved it. There is more information on the ICAEW website at Money Laundering: UK Law and Guidance
We hope to hear from HM Treasury soon because once the guidance is approved, those who have followed it can cite that fact in court as evidence that they have complied with anti-money laundering rules.

For those in the tax sector, there is additional existing guidance (TAXGUIDE 4/09) which should be read as an appendix to the CCAB guidance.

As noted in our previous news item about the CCAB guidance, the 2017 regulations made changes to, inter alia, customer due diligence (CDD) requirements and to firm-wide risk assessment, and, for firms bigger than a sole practitioner with no employees, impose a requirement to appoint a money laundering compliance principal (MLCP). ICAEW published a synopsis of these and other changes made by the 2017 AML regulations.

There is a wealth of other anti-money laundering guidance on ICAEW’s website.

ICAEW members can subscribe to free updates on anti-money laundering by logging into icaew.com and changing their member communication preferences to include money laundering.
About ICAEW

ICAEW connects over 147,000 chartered accountants worldwide, providing this community of professionals with the power to build and sustain strong economies.

Training, developing and supporting accountants throughout their career, we ensure that they have the expertise and values to meet the needs of tomorrow’s businesses.

Our profession is right at the heart of the decisions that will define the future, and we contribute by sharing our knowledge, insight and capabilities with others. That way, we can be sure that we are building robust, accountable and fair economies across the globe.

ICAEW is a member of Chartered Accountants Worldwide (CAW), which brings together 11 chartered accountancy bodies, representing more than 1.6 million members and students globally.

About the Tax Faculty

Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from more than 130 volunteers, many of whom are well-known names in the tax world.