This is a summary of the key tax events for the two weeks ended 9 April 2017. It has been compiled by Anita Monteith, Jane Moore and Ian Young.

This newswire contains all the individual postings we have made to the Tax Faculty website over the past seven days. It includes both news items (www.ion.icaew.com/taxfaculty) and new discussions we have added to our forum (www.ion.icaew.com/Taxforum).

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Spring Budget & Finance Bill 2017 Webinar

Join Rebecca Benneyworth and Anita Monteith at 11:00 on Tuesday 18 April 2017 for the Tax Faculty’s webinar on the recent Budget and bumper Finance Bill.
The changes for IR35 in the public sector are already having unintended consequences for businesses which never imagined they would be affected, as well as implications for the development of the tax system.

The new rules for domicile have been implemented, but leave many wealthy taxpayers unclear about what they mean.

The Making Tax Digital changes laid so far leave much to the imagination.

All this and more will be covered in the one hour briefing, at the end of which we will answer as many of your questions as we have time for. As usual, where we don’t have time to answer them, we will publish a TAXguide with further answers after the event.

Don’t forget, if you buy the webinar or are a Tax Faculty member, you not only get the webinar, but also the associated Q&A TAXguide.

Register here.

Legislating for the UK’s withdrawal from the EU

HMRC has written to ICAEW drawing attention to the government’s white paper on legislating for the UK’s withdrawal from the EU. The full text is reproduced below.

“I am writing to inform you that the government has today published a White Paper on Legislating for the United Kingdom’s withdrawal from the European Union.

The Great Repeal Bill will ensure that, once we have left the EU, our laws will not be made in Brussels but in Westminster, Edinburgh, Cardiff and Belfast. It will allow for a smooth and orderly exit by providing for a functioning body of domestic law on the day we leave the EU.

For businesses in every sector of the UK economy, the Great Repeal Bill will aim to maximise certainty and clarity, and ensure a stable and smooth transition as we leave the EU. Its purpose is to convert EU law as it applies in the UK now, into domestic law that will continue to apply after we leave. As a result, wherever it is practical and sensible, the same laws and rules that apply to UK businesses the day before our departure, will still apply the day after.

This Bill, which will be introduced in the next Parliamentary session, is therefore about continuity. It is not a vehicle for making changes to the regulatory framework that currently applies to business. In the longer term however, we (Westminster, Edinburgh, Cardiff and Belfast) will of course be able to make any changes to our laws we see fit as a sovereign nation.

As you will see, the White Paper considers the constraints on the delegated power, for example preventing the power from being used to impose taxation. You will also be aware that the government will introduce a customs bill to establish a framework to implement a UK customs regime. The government will consider the appropriate legislative vehicles for changes to tax matters where necessary, and will provide further information in due course.

The White Paper also sets out that any question as to the meaning of EU-derived law will be determined in the UK courts by reference to the CJEU’s case law as it exists on the day we leave the EU. The Government has been clear that in leaving the EU we will bring an end to the jurisdiction of the European Court of Justice (CJEU) in the UK. However, for as long as EU-derived law remains in force in the UK, it is essential that there is a common understanding of what that law means.

The White Paper goes into more detail about the Great Repeal Bill. It is available to read in full here. To maximise certainty and help businesses prepare, we have published this guidance for businesses to help explain any changes and answer some of the questions we receive.
We will be happy to discuss this with you further over the period ahead. For further information and to give your comments and feedback on this White Paper, you can also contact the Department for Exiting the European Union at repeal-bill@dexeu.gov.uk.

**MTD screens for agents – how they will look**

A recent HMRC Agent Services Talking Points webinar included a demonstration of some of the screens that agents will see when they sign up to Making Tax Digital (MTD) for Business.

There are four steps that agents will go through:

1. Subscription (registration) to agent services - this involves setting up a new Agent Services Account.
2. Linking of existing agent codes to the new Agent Services Account.
3. Setting up two-step verification on the Agent Services Account.
4. Granting software permission to interact with HMRC

These steps are explained in the Wednesday 29 March 2017 webinar and we recommend that all members in practice listen to the recording. The associated slides are also available.

The screens may be updated before they go live and the commercial software product shown is for illustration purposes only, it is not real.

The initial software products will be very basic with additional functionality being added on a regular basis. The expected timetable of releases for the next quarter is outlined in the webinar and on the slides. HMRC intends to test these screens with four agents in April (independently of software) and possibly with a further four agents in early May. It is likely to be June before any significant number of agents will be able to subscribe to MTD services, though there is the possibility that some MTD software suppliers may be ready to incorporate agent services in their products before then.

A key point to note is that MTD services are being made available through commercial software only and it will not be possible to access them through the government gateway or the agent portal.

**Demystifying Making Tax Digital: webinar questions answered**

The Tax Faculty has now hosted two webinars from the Demystifying Making Tax Digital (MTD) series, and both were very well attended.

We have published the webinar questions and answers in TAXguide 08/17 which is available to all ICAEW members and those who paid to watch the webinar.

Questions asked during the webinar include:

- How do the thresholds and exemption limits work?
- Are quarterly estimates acceptable?
- What is the MTD timetable for a VAT registered company?
- How will residency data be reported under MTD?

There are still many questions to which we do not yet have answers, but as we glean more information we will update this document so that it remains a comprehensive list of frequently asked questions. We will also update the guide to include questions asked during the remaining MTD webinars in the series, and are currently working our way through the questions asked during
the second webinar. Details of all future webinars can be found on the Tax Faculty Events webpage.

The next webinar in the series will be on 2 May 2017 at 11.00. Our focus will be on software.

MTD for business pilot has started

HMRC has published a news story to mark the start of the MTD for business pilot on 3 April 2017.

The expectation is that approximately 150 taxpayers will join the pilot during the first three weeks. Initially, in addition to recording transactions in the software, those in the pilot will be testing the registration process. The functionality to allow for quarterly updates is expected in May, with further releases on a fairly regular basis after that. HMRC’s plan is that up to 200,000 businesses and landlords will be in the pilot by April 2018.

Software providers are releasing the products to allow their customers to join the pilot at different times. A list of MTD compatible software will be published by HMRC later in the year.

HMRC is also testing the registration process with a very small number of agents – the latest information on the process for agents is covered in a separate news item which includes links to an HMRC presentation which demonstrates what some of the screens may look like. Practice MTD software products for agents are likely to be released from about June with most products being available by October.

The Tax Faculty would welcome feedback from members who join the pilot, either as a business or as an agent.

MTD: Pro-forma factsheet for clients

The Tax Faculty has added an MTD factsheet for clients to the agent section of the MTD hub. The factsheet is deliberately short and is intended to be suitable for agents who wish to raise the level of awareness of MTD amongst their business and landlord clients. Firms are free to adapt, brand and use the factsheet as they choose.

Further, more detailed, letters and factsheets targeted at particular groups of clients are being considered. Secondary legislation on MTD is expected to be published by the government in the summer of 2017; we propose to wait until the full set of primary and secondary legislation is available before publishing more detailed letters and guidance suitable for clients. There are still areas of considerable uncertainty and we suggest that these are clarified before more detailed communications are sent to clients.

Exclusions from online filing for 2016/17

HMRC has updated the list of exclusions from online filing and there are some significant additions for 2016/17. A number of members have been informed about this issue by their software providers.

Further details will be available in the May edition of TAXline but in brief:

- The taxpayers that could be affected include those with total income made up of savings and non-savings income over £32,000 of which the non-savings income is between
£11,000 and £16,000, and those with non-dividend income of £27,000 to £32,000 plus dividends which take their total income to over £145,000

- Where an exclusion applies, it is necessary to file a paper return but the deadline for the paper return is effectively extended to 31 January
- HMRC expects to rectify the issue so that these particular exclusions can be removed for 2017/18 and subsequent years.

It is very disappointing that HMRC has not been able to update its software to take account of all the permutations of the dividend and personal savings allowances from April 2016, particularly following the issues with National Insurance contributions and Marriage Allowance in 2015/16 self assessment returns. We understand that the number of affected taxpayers is in the thousands. The Tax Faculty is discussing the issue with HMRC.

We understand that some software packages will prevent online filing by those affected, others will provide a warning message, but many will allow the return to be filed and the calculation will be incorrect or will be amended by HMRC to give the incorrect result.

Note that TAXline is our monthly tax journal which is sent to all members of the Tax Faculty. Why not join us and then also benefit from free access to our webinars and TAXguides?

**Self assessment return forms for partnerships**

HMRC has now published the self assessment supplementary pages and accompanying notes for partnerships to record various income sources for 2016/17:

- Form **SA801** should be used to record UK property income and income from a furnished holiday let.
- **SA802** is used to record any partnership income generated from abroad including interest, dividends and property income.
- **SA800(TP)** is the form used to record income from more than one trade on the partnership tax return. It should also be completed where a partnership has more than one accounting date in the year to 5 April 2017.
- The full partnership statement (**SA800(PS)**) records earnings from sources other than trading and professional income

**HMRC launches an online forum for small and growing businesses**

At Spring Budget in March 2016 the Chancellor announced a dedicated online forum for new and growing businesses and self-employed individuals to get help and support with filing and paying their taxes and with using digital services.

The **Small Business Forum** has now been launched and is aimed at the small business (including the self-employed), in particular those who are doing things for the first time.

This online support forum allows users to post questions and read and respond to posts. The forum is a means for HMRC to provide customer service, as well as allowing users to self-serve and provide peer to peer support.

The categories on this forum include:

- Starting your business
- Growing your business
- Managing your business
Employment tax changes from April 2017

Employment tax has been subject to numerous changes during the past couple of years, a number of which take effect from 6 April 2017.

Some of these changes are contained in Finance Bill 2017 published on 20 March 2017, others were enacted in Finance Act 2016.

Finance Bill 2017 will not receive Royal Assent until (probably) July 2017 and some of the associated guidance was only published by HMRC last week, that is, late March 2017. In our view, it is unreasonable to expect employers and IT providers to be able to implement these changes with so little notice of the detailed provisions and we therefore welcome the change next year to the Finance Bill’s legislative timetable. Future Finance Acts will receive Royal Assent prior to the year to which they apply, even if this will predate the tax year in which they take effect by only a few days.

Finance Bill 2017 measures effective from 6 April 2017 include (in clause order):

- Workers’ services provided to public sector through intermediaries – Clause 7 and Schedule 1. See HMRC guidance updated 1 March 2017
- Optional remuneration arrangements (salary sacrifice) – Clause 8 and Schedule 2. See HMRC guidance published 20 March 2017
- Taxable benefits: time limit for making good – Clause 9
- Taxable benefits: assets made available without transfer of ownership – Clause 11.
- Pensions advice – Clause 12
- Legal expenses etc – Clause 13
- Employment income provided through third parties (disguised remuneration) – Clauses 48–51 and Schedules 16–18. New loan charge, extensions to the self-employed and restrictions to deductibility. See HMRC’s technical note & summary of responses published 5 December 2016 to the summer 2016 consultation and technical update policy paper published 20 February 2017; these need to be read together.
- See also HMRC’s draft guidance for changes to Part 7A published on 20 March 2017 which covers Finance Act 2016 and some Finance Act 2017 changes, but not the new charge on outstanding loans, self-employed schemes or employer deductions, which will be published later in 2017.

For further details, see also our synopses on the various measures in our recent news item: Finance Bill 2017 - employment taxes

A couple of items effective from 6 April 2017 were legislated in Finance Act 2016:

- Sporting testimonials – Section 12 and Schedule 2. The new rules apply where the sporting testimonial was made public on or after 25 November 2015 and the payment is made out of money raised by events which take place after 5 April 2017.
- Apprenticeship levy – Sections 98-121. As noted in our news item dated 1 February 2017 which summarized the provisions, HMRC updated its Pay Apprenticeship Levy guide (which links to Department for Education guidance dated 13 February 2017 on how Apprenticeship Levy will work) and published its Apprenticeship Levy Manual.

Further details on changes for employers from April 2017 will be published in the Tax Faculty’s monthly member journal TAXline. If you are not already a member then you can join the Tax Faculty here.
Finally, a note of warning. There have been no further announcements on whether the three day penalty easement for payroll reporting under PAYE RTI continues after 5 April 2017. Even if it does continue, this has never been a carte blanche to report late – from the start HMRC has said that it would keep an eye on employers who use this easement regularly. If you have any comments on the above changes, including on the text of Finance Bill 2017, then please post a comment below or send a note to peter.bickley@icaew.com.

Updated R185 to report trust income paid to beneficiaries

Trustees are obliged to issue beneficiaries with an R185 showing the income distributed to them and the tax deducted. The form has been updated to reflect:

- the changes in the taxation of interest (the personal savings allowance taxing interest of £1,000/£500/£0 at 0% for basic rate/higher rate/additional rate taxpayers); and
- the dividend 0% rate band.

Trustees do not qualify for the personal savings allowance nor do they receive the dividend 0% band. But the beneficiaries of interest in possession trusts will be able to benefit from the 0% bands on their trust income so tax paid by the trustees can potentially be reclaimed. The R185 has been updated to explain that the beneficiary may be able to reclaim the tax paid by the trustees on interest and dividends.

HMRC issues new guidance on venture capital schemes

Companies looking to raise finance through various venture capital schemes need to meet a number of conditions to qualify, and HMRC published guidance on 30 March 2017 about the permanent establishment criteria.

To be a qualifying company for the Enterprise Investment Scheme (EIS), Seed Enterprise Investment Scheme (SEIS) or Social Investment Tax Relief (SITR), the business must have a fixed place of business in the UK through which the business is wholly or partly carried on. The guidance gives the some examples of how a business might be permanently established in the UK: by having an office or factory in the UK; a place of management in the UK or a workshop in the UK. It is also possible to be permanently established in the UK if the business has an agent based in the UK who is able to enter contracts on behalf of the company (and this must amount to a substantial element of the company’s business).

The guidance also sets out the rules for group companies including non-UK resident parent companies.

ATED returns and forms

As reported in our news item in January HMRC launched a new online service for ATED (annual tax on enveloped dwellings) returns.

The online system is not compulsory and the old forms are still available. These can be completed on screen and then printed off for a record, or printed to complete and submit on paper. There have now been a few minor amendments to some of the ATED forms and documents, as listed below.

Looking at the forum posts the online system is causing difficulties for some agents; please add any comments you may have about this, as the Tax Faculty will monitor the situation.
The updated ATED forms and documents are:

**Annual Tax on Enveloped Dwellings: Relief Declaration Returns**
Changed to show year 2017-18.

**Register and submit your Annual Tax on Enveloped Dwellings return**
Amendments made to provide information on submitting ATED returns using the online service.

**Annual Tax on Enveloped Dwellings: returns**
Updates made to the sections on how to submit the return and changes to the return. A return submitted via the online service can be amended via that service otherwise it must be amended by accessing the ATED return form through the returns notice.

**Annual Tax on Enveloped Dwellings**
Section added to give the links on how to submit the return and pay.

**Annual Tax on Enveloped Dwellings: return forms and Notice**
This guide has been reviewed and updated to reflect recent process changes.

**Annual Tax on Enveloped Dwellings: reliefs and exemptions**
Reference to home reversion plan added to the section for reliefs that can be claimed. A new relief was introduced in Finance Act 2016 to cover providers of home reversion plans/equity release where the occupier of the property ceases to live there because they have moved into a care home or have died.

**Corporate interest restriction**

HMRC has published draft guidance on the new corporate interest restriction provisions in Finance Bill 2017.

The Corporate Interest Restriction (CIR) rules are contained in Schedule 10 of Finance Bill 2017 published on 20 March 2017. They limit the tax relief that large multinational businesses can claim for interest and other financing expenses and take effect from 1 April 2017. They bring the UK into line with the minimum standards agreed by OECD in respect of Action 4 of its Base Erosion Profit Shifting Action Plan.

Groups with less than £2m of net interest expense will not be caught by the new rules. The fixed ratio method will limit the amount of net interest expense that a worldwide group can deduct against its taxable profits to 30% of EBITDA (earnings before interest, taxes, depreciation and amortisation.) As an alternative there will be a group ratio rule based on the ratio of net interest expense to EBITDA r for the worldwide group based on its consolidated accounts. There are also public infrastructure rules to exclude from the scope of the interest restriction amounts of qualifying interest expense incurred by qualifying companies on funds invested in long-term infrastructure for the public benefit.

There is an initial tranche of guidance, focusing on the core rules and other aspects where guidance has been specifically requested. Further draft guidance will be issued by 31 May 2017.

Comments about the draft guidance should be sent to the Corporate Interest Restriction team interest-restriction.mailbox@hmrc.gsi.gov.uk. Comments can sent in batches, but all comments should be submitted by 31 July 2017.

HMRC has also published draft Regulations, and a draft explanatory memorandum, which will ensure the interaction of the rules with accounting standards does not give an unwarranted
restriction on commencement of the corporate interest restriction regime. In particular, they deal with timing differences between the group and entity accounts when applying the fixed ratio debt cap and also for the group ratio method for highly leveraged groups.

Country by country reporting – new regulations

New Regulations The Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) (Amendment) Regulations 2017 have been published along with a Tax Information and Impact Note (TIIN) which sets out the changes, which are to take account of international developments, and:

- extend the original statutory requirements to partnerships, this amendment was announced in August 2016
- require a UK entity with an obligation to file a UK Country by Country (CbC) report to ask for the information necessary to complete a full CbC report and make a minor change to align the “local filing” requirements with the OECD model
- introduce a requirement for a UK entity in each MNE group to tell HMRC, annually, which entity in the MNE group will file the CbC report and where and provide the names and unique taxpayer references for all of the MNE group’s UK entities

General anti-abuse rule (GAAR) – guidance

HMRC has published updated GAAR Guidance, as at 31 March 2017 which replaces the earlier Guidance published in January 2015. You can read the earlier Guidance by clicking here.

You can read about the GAAR Advisory Panel, its procedures for dealing with referred cases and its terms of reference by clicking here.

We explained the overall background to the GAAR in our postings at the time of publication of earlier Guidance and our earlier Commentary, which is equally applicable to the latest Guidance, is reproduced below:

“The guidance states at the outset that the premise underlying the GAAR is that the levying of tax is the principal mechanism by which the state pays for the services and facilities that it provides for its citizens, and that all taxpayers should pay their fair contribution. It reemphasises that recent court cases have laid down that “relevant statutory provisions need to be construed purposively, and applied to the facts viewed realistically” but it goes somewhat beyond that position. In broader terms the guidance states that no longer is “taxation to be treated as a game where taxpayers can indulge in any ingenious scheme in order to eliminate or reduce their tax liability”.

The GAAR will apply to abusive tax arrangements. Tax arrangement is drawn quite widely to cover instances when “it would be reasonable to conclude that the obtaining of a tax advantage was the main purpose, or one of the main purposes, of the arrangements.” The guidance recognises that this sets a low threshold but the main test, or filter, is whether the tax arrangement is abusive and nearly a third of the principal guidance, in the first three parts A to C not including the examples in Part D, is taken up in explaining what is meant by abusive.

Paragraph C5.4 sets out the key elements of the abusive tax arrangements which are arrangements which cannot reasonably be regarded as:

- a reasonable course of action in relation to the relevant tax provisions, having regard to all the circumstances;
and these circumstances require you to:

- compare the substantive results of the arrangements with the principles on which the relevant tax provisions are based, and with the policy objectives of those provisions;
- see whether there are contrived or abnormal steps; and
- see whether the arrangements are intended to exploit any shortcomings in the relevant provisions; and

There are then certain indicators of abusive tax arrangements such as less taxable profit than the economic profit or greater losses. On the other hand an indicator of non-abusive tax arrangements is where the arrangements accord with established practice and HMRC at the time that the arrangements were entered into had indicated that they accepted the particular practice.

It is helpful that the Guidance specifically recognises, paragraph B12.2, that there are sometimes bear traps in the legislation and taxpayers “have to take what appear to be contrived steps in order to ensure that they are not taxed on more than the economic gain” in which case such steps would generally not be considered to be abusive.”

**HMRC launches new fraud hotline**

HMRC [has launched a new hotline](#) for the public to report tax fraud and evasion.

This service has replaced two separate tax evasion and customs hotlines with one, aiming to streamline HMRC’s intelligence gathering on tax fraud.

The HMRC Fraud Hotline: 0800 788 887

It is open between 8am and 8pm, seven days a week, 365 days a year. It can be used to report all kinds of tax fraud and evasion, including:

- PAYE and National Insurance fraud
- undisclosed offshore investments
- tax credit fraud
- failure to pay UK duty
- tax evasion
- VAT fraud

**VAT Practitioners Group Conference 2017**

The VPG will be holding its 2017 Conference at The Principal York Hotel, Station Road, York on 16 June 2017.

The programme is now finalised with a strong list of topics and speakers. The plenary sessions will be:

- International VAT with Ian Broadhurst – Head of VAT International at HMRC
- Land and Property with Martin Scammell
- Restitution and Remedies pre and post Brexit with Roderick Cordara QC and Lyndsey Frawley
- View from the Bench with Judge Greg Sinfield
- Case law update with Jonathan Peacock QC and John Brinsmead-Stockham
Delegates will also have the opportunity to choose two from four breakout sessions on the topics of making tax digital/office of tax simplification, tripartite agreements and input tax recovery, anti-avoidance and VAT in the GCC (Dubai etc).

You can now book your place on this conference via the VPG website. ICAEW members save £50 and, if you book by the end of April 2017, you can save a further £50.

The full programme is available to download from this news item.

New online trust register as part of the Fourth Money Laundering Directive

Form 41G (Trusts) will be withdrawn from 28 April 2017 and any forms received by HMRC after 28 April will be returned.

The draft regulations to apply in the UK for compliance with the Fourth Money Laundering Directive were published for consultation on 15 March 2017, responses are required by 12 April 2017.

As part of the process for compliance with the regulations a new online system is being developed for reporting new trusts to HMRC. Form 41G (Trusts) will be withdrawn from 28 April 2017 and the online system will be available for trustees from June 2017 when the trust register requirements come into force; it is planned to be available in September for agents. In the meantime agents will have to stockpile new notifications.

As part of the process HMRC would like volunteer agents and trustees to work with them to develop the online system to help ensure that it operates in a way that is practical for agents and trustees.

If you would like to volunteer please contact sue.moore@icaew.com who will pass your details to HMRC.

Forum post: 2017/18 PAYE notices of coding – any problems?

HMRC has now almost completed the annual run of 2017/18 PAYE notices of coding.

The Tax Faculty would like to receive members’ comments on the coding notices and the associated processes.

The format of the coding notice is almost unchanged this year, following a significant revision to a consolidated format in late 2015. Do you have suggestions for further improving the format?

Initial reports suggest that there are continuing issues with the accuracy of adjustments for interest and dividends. Is this your experience?

Details of tax codes for clients in self assessment should be visible through the agent portal. Is this proving to be the case and are they showing under the correct year tab?

Have you used the online form 2017-18 Tax code – structured email to request an amendment to a notice of coding? If so, was it was actioned correctly and speedily?

This online form is no longer available to individual taxpayers who are encouraged to request tax code changes through their Personal Tax Account. We continue to press HMRC on the fact that agents do not receive details of tax codes for taxpayers who are not in self assessment and cannot access their clients’ Personal Tax Accounts. HMRC has indicated that it intends to give agents this access (via commercial software) but as yet there is no time scale for introducing it.