



**Edition 22**  
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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



#### HMRC updates Investment Funds Manual with QAHC guidance

HMRC has recently published a new **section** in its Investment Funds Manual, providing guidance on the operation of the qualifying asset holding companies (**QAHC**) regime introduced by section 14 and Schedule 2, Finance Act 2022. HMRC has also published a **form** and **guidance notes** for taxpayers making notifications in relation to QAHCs. The regime came into effect on 1 April 2022.

The new section sets out the background to the new regime, identifies the legislation and considers the conditions for treatment as a QAHC and also provides guidance on how HMRC will apply the rules. The new section also provides helpful examples which will be of interest to companies which are within the regime. For example, **IFM40365** provides examples of how amounts relating to ring-fenced and non-ring-fenced income and expenses should be apportioned (on a just and reasonable basis) and **IFM40360** provides an example of how ring fence profits and non-ring fence profits of a QAHC are calculated and apportioned.



#### HMRC confirms next steps in raising standards in tax advice market initiative

HMRC has recently published a **report** summarising its powers and approach to tackling poor agent behaviour and its approach to upholding its Standard for Agents. The report forms part of the "raising standards in the tax advice market initiative" and provides examples of other HMRC initiatives and powers for agents generally, and for poor tax agents specifically.

Without referencing specific timescales, the report also sets out HMRC's next steps which include updating its Standard for Agents and publishing its approach to tax agents in a single policy document that will include the mechanism for reporting breaches of the Standard for Agents. The report confirms that HMRC will continue to gather evidence, which will then be used to assess whether new powers are needed to support the outcomes of the consultation.



#### OECD publishes commentary regarding pillar two model rules and consults on implementation framework

The Organisation for Economic Co-operation and Development (**OECD**) has published **commentary** on its pillar two model rules, which featured in our **February 2022** update. These rules are otherwise known as the Global Anti-Base Erosion (**GloBE**) rules, and will, if implemented, result in a global minimum tax rate of 15% on the profits of the largest multinational enterprises.

The OECD has also published a **consultation**, which closes on 11 April 2022, on the implementation framework for pillar two that focusses on administrative, compliance and co-ordination issues. The commentary does not address the co-existence of the GloBE rules with the US Global Intangible Low-Tax Income (**GILTI**) rules. This may be because changes to

the GILTI rules to bring them in line with the GloBE rules are being considered by the US.

In January, the UK published a **consultation** on implementing the pillar two model rules in the UK, including a domestic minimum tax of the kind envisaged in the GloBE rules. The consultation closed on 4 April 2022.



### HMRC penalty guidance updated for follower notices

HMRC's **guidance** on follower notices and accelerated payment notices has been updated to cover, amongst other things, penalty reductions for taxpayer co-operation and when it is reasonable for a taxpayer to appeal.

The guidance now includes specific percentages for the maximum reductions available when a taxpayer co-operates in various circumstances. Follower notices are intended to discourage appeals in cases where a tax planning has been shown to be ineffective in another case. The guidance now explains in what circumstances it is reasonable for a taxpayer not to take corrective action.

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## Case reports



### No tax due on transfer of business to connected company

In *Conran and another v HMRC* [2022] UKFTT 39 (TC), The First-tier Tribunal (**FTT**) held that the transfer of a business between connected parties resulted in no capital gains tax (**CGT**) liability for the seller, having reduced the stated £8.25m valuation of the business to £1 for tax purposes.

This decision has produced an unexpectedly good result for Mr Conran, who had anticipated a large CGT liability on the proceeds of the sale. The decision should be carefully considered by taxpayers in a similar position who wish to incorporate a valuable business in a tax efficient manner.

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



### HMRC misses penalty

In *Portview Fit-Out Ltd v HMRC* [2021] UKFTT 447, the FTT allowed the taxpayer's appeal against a penalty imposed by HMRC, concluding that the taxpayer's conduct was neither careless nor deliberate.

Portview Fit-Out Ltd (**Portview**) had participated (over five 'tranches') in an employee benefit trust (**EBT**) arrangement. In order for the arrangement to be effective, it was crucial that the extent to which individual employees benefitted under the arrangement was determined by an independent company and not the employer. Portview engaged a Jersey-based HR consultancy to review the individuals' performance and recommend how to allocate funds. HMRC accepted that that had been done for the first four tranches and that no penalty was due, but in relation to the fifth tranche it was of the view that Portview itself made the determination and issued a penalty in relation to that tranche.

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



### Payments to employees were "relevant motoring expenditure" and should be disregarded for the purposes of NICs

In *Willmott Dixon Holdings Ltd v HMRC* [2022] UKFTT 6 (TC), the FTT held that payments to employees were "relevant motoring expenditure" (**RME**) and could be disregarded for the purposes of Class 1 National Insurance Contributions (**NICs**).

This case provides some clarity on when employer car payments will be a qualifying amount, namely, when the allowances are relevant to motoring expenses. It consolidates the findings in *Laing O'Rourke Services Ltd v HMRC* [2021] UKFTT 0211, that car allowance payments made by the company to its employees were earnings. In this case, the FTT reached the same conclusion (that allowances had to be RME for payments to be a qualifying amount), but it departed from Laing in finding the allowances were RME. The taxpayer in *Laing* has been granted permission to appeal the FTT's decision to the Upper Tribunal, and the decision of the Upper Tribunal in that appeal will no doubt provide more definitive guidance.

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



### **And finally...**

*In a much-anticipated podcast, we revisit the multi-billion tax trading scandal known as Cum-Ex and consider recent developments and discuss why this rapidly expanding cross-border tax fraud remains of interest 5 years after it was first exposed. With so many twists and turns since Bloomberg journalist Donal Griffin first covered Cum-Ex fraud on Taxing Matters episode 12 back in December 2020, we are delighted to be joined by barrister David Stern to discuss recent developments. David is Joint Head of the Regulation and Business Crime Practice Group at 5 St Andrews Hill Chambers and is a leading expert in this specialised area.*

A link to the podcast is available [here](#).

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If you have any queries or comments, please contact:



**Adam Craggs**  
Partner  
+44 20 3060 6421



**Constantine Christofi**  
Senior Associate  
+44 20 3060 6583



**ADVISORY | DISPUTES | REGULATORY | TRANSACTIONS**

Tower Bridge House St Katharine's Way London E1W 1AA  
T +44 20 3060 6000 F +44 20 3060 7000 DX 600 London/City [rpc.co.uk](http://rpc.co.uk)

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