

TECHNICAL NEWSLETTER

Welcome to the Winter edition of the
ATT Technical Team newsletter!

In this edition we highlight the various
Consultation responses submitted by the
Technical Team on Making Tax Digital, VAT
Penalties and Employment Taxes issues.

We also note the main tax announcements made
during this year's Autumn Statement, held on 23
November 2016, alongside the Technical Team's
responses to some of the measures announced.

As draft legislation for Finance Bill 2017 was only
released on 5 December, it is too soon to cover
any of this in the Winter edition. The Technical
Team will be reviewing the draft clauses of the
FB2017 in detail and submitting comments to
HMRC. We will report back on this work in our
Spring edition, due for publication at the end of
March 2017.



Practical Tax People
Association of
Taxation Technicians

DIGITAL UPDATE

Making Tax Digital Consultations

ATT submitted its responses to the 6 *Making Tax Digital* (MTD) consultations on 4 November 2016. We summarise below the key points made in each response.

Bringing Business into the Digital Age

The ATT has always said that it supports a move towards the tax return being completed digitally but we have serious concerns about the concept of rushing small businesses and landlords to mandatory quarterly digital reporting. In short, we believe that HMRC and the Government are being overly-ambitious in what they are trying to achieve in such a short timescale, as well as making it too onerous and costly for the smallest business given the low threshold for quarterly reporting.

We strongly recommended a slowing down of the whole process and, in particular, a reconsideration of the mandatory aspect of these proposals. A few years ago, HMRC offered incentive payments to employers to file PAYE returns online before it became mandatory, with such payments reducing over a period of time as the mandatory deadline approached. We believe that a substantial case could be made for a similar incentive payment scheme to encourage businesses to adopt the MTD proposals over a period of, say, five years before it becomes mandatory.

We believe that much more can be achieved if the taxpaying public is led progressively and systematically through these changes rather than being forced into such radical changes in a very tight time-scale.

We also expressed concern around the case studies used in the consultation. They present a picture of an idyllic world. Everything works perfectly, everyone is organised with their books, people update their books as they go along, any queries are resolved quickly and everyone understands the tax treatment of the expenses they have incurred and deals with them correctly. In reality, though, it's not like this. It's good to strive to achieve this and

work towards this but it is not going to happen overnight or even by April 2018. Indeed, 'doing ones tax anywhere and everywhere' could mean less thought and consideration might go into it, and quite innocently and without the intention to defraud, taxpayers might overlook the fact that something is an unusual expense and consequently fail to take specialist advice.

Simplifying tax for unincorporated businesses

Cash basis threshold

In terms of simplicity and assuming that the turnover entry threshold is to be increased, we can see merit in retaining a clear link to a multiple of the VAT threshold. Any exit threshold is necessarily arbitrary but setting it at twice the entry threshold has the great merit of simplicity.

Basis periods

For simpler businesses where the main purpose of preparing accounts is to establish the taxable profits, we can see a theoretical attraction of determining taxable profits by reference to the aggregate of the taxable profits of the accounting periods that end within the relevant tax year. However, where the preparation of accounts is also required for other purposes (for example monitoring the commercial profitability of the business and obtaining banking facilities or credit including mortgages), we are significantly less convinced about the attraction of accounting periods of other than a twelve month period.

Simpler business reporting

We found the references in the consultation confusing and unclear. We are fundamentally opposed to the removal of a business's entitlement to provide for bad debts (within the current tight constraints).

Reforming the capital/revenue divide within cash basis

We can see that the concept simplifies the process which a business is currently meant to follow in determining whether a capital expense

can be claimed within the cash basis, and may bring the provisions for deductibility more in line with what may already be the prevailing practice.

Simplified cash basis for unincorporated property business

We see no reason in principle why there should be a relevant maximum eligibility limit for the cash basis for unincorporated property businesses, although the consultation gives no indication as to why there should be a distinction in this respect as between property businesses and trading businesses. We think that it would be helpful to have an explanation for the distinction. It is possible that such explanation might assist consideration of whether certain categories of *trading* businesses might similarly be exempted from the relevant maximum limit eligibility rule.

We agree that it should be optional, and that taxpayers should be able to opt separately in respect of their different property businesses, and separately in relation to any trading business, too.

We are doubtful whether the explanations contained in the Consultation would provide enough information to enable the unrepresented to decide whether to opt for the cash basis. We would not expect many to appreciate fully the implications of opting for the cash basis.

Tax administration

In relation to sole traders who have no other income and for whom the End of Year declaration will replace their annual tax return, it will be appropriate to amend the current enquiry powers so that they apply to the End of Year declaration. However, in relation to traders with multiple sources of income or with an entitlement to tax relief on non-business outgoings (pension contributions, EIS investments, etc), there appears to be a continuing requirement for some form of aggregate declaration by the taxpayer (a tax return, however it might be described) in order to signify the provision of all necessary information. In such circumstances, our view at this stage is that the compliance legislation

and enquiry powers should apply to that aggregate declaration and not to the End of Year declaration which would only have provided part of the picture. We think that this question should be specifically addressed in a separate detailed consultation

The existing record keeping legislation is primarily contained within section 12B, TMA 1970. We anticipate that the section will need to be substantially modified to reflect the MTD proposals. In particular, Section 12B(5) provides the current sanction of a monetary penalty for failure to comply with the record keeping obligation. Significantly, the relevant legislation does not include any provision for suspension of such a penalty for a record keeping failure. Simply imposing a monetary penalty does nothing to address the cause of the non-compliance. By contrast, suspension of the penalty to give the taxpayer time to acquire the relevant knowledge of how they should fulfil their obligation retains the credible threat of a penalty but, more importantly, provides the incentive to ongoing compliance. It also fulfils the aim of supporting taxpayers who do their best to comply and distinguishes them from those who deliberately default and cheat the system.

We do not agree with just a 12 month deferral for the introduction of penalties, given the very radical nature of the proposed changes. We think that the familiarisation period should be a minimum of two years.

We think that at the completion of the appropriate 24 or 12 month period, the late submission penalty point should be deleted from the taxpayer's record regardless of whether there were other penalty points on the clock. We suggested that there might for example be the possibility of reducing penalty points after (say) three successive submissions on time. That would appear to be consistent with the principle of rewarding compliance.

We do not think that the amount of the fixed penalty should reflect the size of the business.

DIGITAL UPDATE

Any such basis would introduce complexity into the legislation as there would have to be definitions in respect of size.

We are fundamentally opposed to the concept of points only becoming appealable when they have caused a penalty to be charged. We suggested a middle ground whereby statute would provide for reasoned objections to be lodged against penalty points (possibly through the provision of an online form with pre-populated reasons for the objection and space to provide supporting detail). In the event of the penalty points accumulating to the threshold level for a penalty, those objections would then be considered before a penalty was issued.

In relation to penalty interest, we do not see a 14 day period as appropriate. Consistent with the current late-payment provisions, we think that the lower rate of interest should apply for a 30 day period. We agree with the view that penalty interest could produce a more proportionate sanction than the existing penalty regime. In principle, we support the alignment of interest rates across taxes.

Voluntary pay as you go (PAYG)

The key points were:

- The idea to encourage taxpayers to budget better for future tax liabilities is very sensible and we support this.
- However, the current Budget Payment Plan scheme is woefully under-publicised.
- These proposals only apply to taxpayers who are providing digital quarterly reports. This disadvantages those not providing digital updates (including significantly the digitally excluded). There is no reason to assume that these groups might not also want to budget and plan ahead.
- The proposals as they stand come across as confusing in terms of the allocation of voluntary payments and we believe taxpayers will find this hard to follow.
- HMRC need to be very wary of imposing too much change too soon on taxpayers. It

might therefore be better to allow taxpayers to become familiar with quarterly reporting before introducing PAYG.

Transforming the tax system through the better use of information

On the whole, the ATT can see the potential benefits of what HMRC is trying to achieve.

However, we cautioned HMRC on how quickly it should move ahead with the proposals. HMRC and the Government need to take the time to get this right to ensure that it provides maximum benefits to taxpayers and HMRC with minimum frustrations and disruptions and without any unnecessary cost to businesses, the general public and the public purse.

The achievement of the full potential of the proposals in this Consultation will depend very heavily on the accessibility and ease of use of the Digital Tax Account (DTA), and there is still a lot of work to be done in this area.

All of our responses to the *Making Tax Digital* consultations can be read in full at: <http://www.att.org.uk/technical/submissions/making-tax-digital-att-comments>

Following our submissions, we also released two Press Releases covering points raised in our submissions. These can be read at <http://www.att.org.uk/technical/newsdesk/press-release-government-must-bear-costs-if-businesses-are-obliged-change-their>

and

<http://www.att.org.uk/technical/newsdesk/press-release-experts-question-viability-taxpayer-penalties-under-hmrc%E2%80%99s-making>

Autumn Statement update on Making Tax Digital (MTD)

Whilst no mention was made of the MTD project in the Chancellor's Autumn Statement Speech on 23 November 2016, the supporting documents did clarify that HMRC's Response Documents would not be issued until January 2017, to allow

HMRC time to digest all of the responses they have received to the consultations. In a letter from HMRC's Theresa Middleton that has been issued to all stakeholders who contributed to the consultation responses, it was confirmed that draft legislation would be published alongside the Response Document in January 2017. It was previously thought that draft legislation on MTD would appear on 5 December 2016.

PERSONAL TAXATION

Changing a Tax Code over the phone

In June 2016, the Agent Service Standards Working Group that reports into the Joint Initiative Service Group held a workshop with Professional Body representatives and HMRC to explore the issue of the length of time it takes to amend a tax code over the phone. At the workshop, HMRC explained the process and the reasons why such a level of information was required. It was agreed by all parties that communication of this information would help Agents understand why what is quite a straightforward task can take a bit longer than expected.

When contacting HMRC to change a tax code, the process for updating the code and the information you will be asked to provide will depend on what it is that requires changing.

The system used by HMRC is built in such a way that a calculation needs to be performed each time a tax code is to be changed. There is no override facility to circumvent this process. This ensures the correct tax code is issued based on the information provided and ensures that where multiple sources of income exist they are collecting the correct amount of tax at each source.

To update a tax code HMRC have to establish exactly what in the tax code needs changing before the tax code can be calculated. HMRC will then update the relevant part of the tax code, which in turn will calculate and issue the new tax code.

The questions asked by HMRC depend on what in the tax code needs updating.

For example:

Expenses

HMRC will need to know:

- what type of expense is being claimed
- if this is the first claim

- whether the expense has been claimed previously and agreed

If the expenses are continuing, the officer cannot remove them from the tax code even if the customer is in SA, as the basis of PAYE is to collect the correct amount of tax as the income is earned.

Notifying of other income

HMRC will need to know:

- what type of income it is
- the amount that is expected to be received

One question that will be asked on each occasion is to provide an estimated pay figure for each employment source even if it is just one source that requires an update to the tax code. This is important in order to ensure that HMRC have as up to date a picture as possible of the customer's total PAYE income. If you have this information to hand when you phone HMRC, it will help make the call a little quicker.

Professional bodies update guidance for tax advisers

The leading UK accountancy and tax bodies (including ATT) have published updated guidance on the standards expected of tax advisers and agents. The guidance has been endorsed by HMRC and sets out clear professional standards including specific guidance in relation to the facilitation and promotion of tax avoidance.

The guidance, formally known as Professional Conduct in Relation to Taxation (PCRT), has been in existence for over 20 years and is regularly updated. It sets out the high ethical standards which form the core of the tripartite relationship between tax adviser, client and HMRC. It supports the key role members play in helping clients comply with their tax obligations and their broader responsibilities to society. The guidance in the PCRT is based on five fundamental principles:

- Integrity
- Objectivity
- Professional competence and due care
- Confidentiality
- Professional behaviour

For this latest update, the professional bodies have strengthened the existing five fundamental principles by the addition of five new **Standards for Tax Planning** that members must observe.

These include a standard which makes clear that members “must not create, encourage or promote tax planning arrangements or structures that (i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation, and/or (ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation.” Such behaviours would lay a member of one of the bodies open to disciplinary action.

This addition to the PCRT responds to the Government’s challenge to the professional bodies, made in March 2015, to take a greater

lead in setting and enforcing clear professional standards around the facilitation and promotion of tax avoidance.

In a joint statement, the seven bodies said:

“PCRT has long set out professional and ethical standards which require more of the members of professional bodies than the letter of the law demands, and rightly so. Professionals owe a duty to the society in which they operate as well as to their clients. Our professional rules have long recognised this, for example in requiring the correction of HMRC errors. However, social expectations of behaviour in relation to tax planning have evolved significantly in recent years. Fundamental professional obligations to act with integrity and uphold the reputation of the profession and of clients would not be met if our rules did not also change to recognise this.”

“We believe these new Standards for Tax Planning achieve an appropriate balance – making clear to the small minority of tax professionals who continue to facilitate and promote tax avoidance schemes that this behaviour is not acceptable, while enabling the vast majority of advisers to continue undertaking responsible tax planning for their clients to help ensure that they pay the right amount of tax as intended by law. We hope that those tax advisers and agents who are not members of the seven PCRT bodies will also commit themselves to following this code.”

The Government has supported the publication of the updated PCRT. HMRC has also acknowledged that the updated guidance is an acceptable basis for dealings between members of the bodies and HMRC.

A copy of the guidance can be found at <http://www.att.org.uk/professional-standards/professional-rules/professional-conduct-relation-taxation>

PRACTICE MANAGEMENT

Client Notification – Update from HMRC

The following is a message and guidance note provided by HMRC regarding client notification obligations:

In previous correspondence we mentioned that HMRC was in the process of developing its Gov.uk websites on the client notification. We wanted to bring these, now completed, pages to your attention which we encourage you to share with colleagues in your business or members of your trade association/representative body.

The notification itself directs readers who need to bring their tax affairs up-to-date to the [Worldwide Disclosure Facility page](#). This has been updated to include a link to the [guidance for recipients of the notification](#). This guidance explains why clients have received the notification and what, if any, action they should take.

The [client notification landing page](#) which went live last month now includes a [guidance summary](#), “Guide to sending the client notification letter”, for financial institutions and advisors. This includes links which direct users to our more detailed guidance in the [International Exchange of Information Manual](#).

Here is a summary of the relevant websites for the client notification:

Worldwide Disclosure Facility landing page:

<https://www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure>

Client notification landing page: <https://www.gov.uk/government/publications/client-notification-income-or-assets-abroad>

Guidance for recipients of the client notification: <https://www.gov.uk/guidance/income-or-assets-abroad-letter-about-your-uk-tax-affairs>

Guide to sending the client notification letter: <https://www.gov.uk/government/publications/client-notification-income-or-assets-abroad/notes-on-how-and-when-to-send-the-client-notification-letter>

Full guidance on the client notification in the

HMRC manual: <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim600000>

The regulations in full: <http://www.legislation.gov.uk/ukxi/2016/899/contents/made>”

Catch-up with the ATT/CIOT webinar on Client Notification Responsibilities

A webinar was held on this subject, which has the potential to affect all members in practice, on Thursday 1 December, featuring:

- Gary Ashford, CIOT Council Member, member of the CIOT’s Management of Taxes technical sub-committee and CIOT representative at the CFE
- Tracy Easman, ATT Vice President and Chair of the CIOT/ ATT Joint Professional Standards sub-committee
- Tina Riches, Chair of the CIOT’s OMB technical sub-committee and vice-chair of the joint CIOT/ATT Digitalisation and Agent Strategy Working Group

If you missed it then you can still take the opportunity to catch-up by watching the recording on the Lexis Nexis site where it will be available for 12 months. <http://lexisauditorium.com/stage.aspx?c=57d413b5-85c1-4463-9ca6-8bc06ba39b4e&t=636158599832727349>

Autumn Statement Update – Abolition of the Autumn Statement

At the end of his speech on 23 November 2016, the Chancellor announced that his first Autumn Statement speech would in fact be his last, as he abolished the fiscal event and advised that following the Spring 2017 Budget there would only be one annual fiscal event – an Autumn Budget.

The Chancellor said that moving the Budget to the Autumn from 2017 and moving to a single annual fiscal event will ‘allow for greater Parliamentary scrutiny of Budget measures ahead of their implementation’

PRACTICE MANAGEMENT

The ATT released a Press Release on Autumn Statement day in which Yvette Nunn, Co-Chair of the ATT's Technical Steering Group said,

"The Chancellor's view could make a lot of sense. At present, we have the situation that a Budget Speech in March is followed by the publication of the Finance Bill in the same month with Royal Assent to the Finance Act usually happening in July. But if the Bill is introducing a change that has effect from April of the same year, it means that there is a three-month period when the law is uncertain. It also reduces the chance of any significant change being made to the Bill even if it is clear that a provision may not work quite as intended."

The ATT's view is that the change could lead to better tax legislation although to get the most out of the change, it will be essential for the whole timetable for new legislation to be considered.

Read our Press Release in full here: <http://www.att.org.uk/technical/newsdesk/press-release-tax-experts-call-consultation-new-budget-timetable-ensure-it>

INHERITANCE TAX AND TRUSTS

HMRC commission research to explore the use of trusts

HMRC have commissioned Ipsos MORI to conduct research in order to better understand what motivates individuals to set up trusts. HMRC have said that this research is “key in helping HMRC develop a greater understanding of the motivators for setting up trusts, to inform possible policy changes in this area”

Ipsos MORI will be conducting research with settlors of trusts and agents of trust’s clients. HMRC value the views of agents, and would like to encourage participation in this research. Agents will have been randomly selected to take part in the research. Those selected will have received a letter from Ipsos MORI during the second part of September 2016, inviting them to take part in the research and providing information on how to opt-out if they want to. HMRC are also contacting trusts settlors.

HMRC do not hold data that allow them to link individual trust settlors and agents. The researchers are contacting them from independent lists. Therefore, it is possible some of your clients may also be randomly selected to take part. Interviews will last for approximately 60 minutes in a location of the agent’s choosing or by telephone.

If you would like further information on the research from Ipsos MORI, please contact trustsresearch@ipsos.com or Helen Greevy on **0207 347 3416**.

Autumn Statement Update - Reforms to the taxation of non-domiciled individuals

- As previously announced, the government will end the permanency of non-domiciled tax status. From April 2017, non-domiciled individuals will be deemed UK-domiciled for tax purposes if they have been UK resident for 15 of the past 20 years, or if they were born in the UK with a UK domicile of origin. As previously announced, non-domiciled

individuals who have a non-UK resident trust set up before they become deemed-domiciled in the UK will not be taxed on income and gains arising outside the UK and retained in the trust.

- From April 2017, inheritance tax will be charged on UK residential property when it is held indirectly by a non-domiciled individual through an offshore structure, such as a company or a trust. This closes a loophole that has been used by non-domiciled individuals to avoid paying inheritance tax on their UK residential property
- The Government will change the rules for the Business Investment Relief (BIR) scheme from April 2017 to make it easier for non-domiciled individuals who are taxed on the remittance basis to bring offshore money into the UK for the purpose of investing in UK businesses. The government will continue to consider further improvements to the rules for the scheme to attract more capital investment in British businesses by non-domiciled individuals

Alignment of dates for 'making good' on benefits-in-kind

The ATT has provided its response to the recent HMRC Consultation on how to align the various dates that currently exist within legislation to 'make good' tax on benefits-in-kind.

The Consultation came about after the Office of Tax Simplification (OTS), employers and representative bodies pointed out to the Government that there are problems with the existing rules as a number of different dates can apply depending on the type of benefit and whether the benefit is being dealt with through voluntary payrolling or via a year-end P11D form.

HMRC raised a number of questions with the purpose of bringing clarity and aligning the many different dates.

HMRC suggested the following:

- That for company cars and company vans, the date for making good should be the end of the tax year
- That for car and van fuel, credit tokens and beneficial loans, the date for making good should be 1 June following the end of the tax year

The ATT, in its response, did not agree with this two-tier approach and said that employers should not have to face yet another set of rules and deadlines to remember. The ATT suggested that the deadline for making good on any benefit should be the 6 July in all cases. As the ATT pointed out, many employers have been working to this date informally for a number of years and it fits with the current submission deadline for P11D forms. The ATT urged HMRC to simply formalise this procedure and added that the impact on the Exchequer of allowing a deadline date of 6 July would be minimal but the benefit to employers in terms of easing administrative burdens would be much more significant.

Our response can be read in full at <http://www.att.org.uk/technical/submissions/alignment-dates-making-good-benefits-kind-att-response>

Simplifying the PSA process

HMRC published a consultation in August 2016 on proposals to 'simplify' the process employers use for agreeing and reporting items to them through a PAYE Settlement Agreement (PSA).

These proposals included:

- Removing the requirement to agree the items in a PSA with HMRC;
- Introducing a digital PSA return process;
- Aligning the PSA payment date with the Class 1A NICs payment deadline;
- Removal of 'minor' from the PSA criteria; and
- New guidance on interpreting the 'irregular' and 'impracticable' categories.

ATT agreed that the new proposals should provide significant simplification, especially as it will remove the differing treatment that can currently exist between the NIC and tax treatment depending on whether the benefit or expense is provided at a point in the year before or after an PSA has been agreed with HMRC.

ATT also asked HMRC to consider introducing an advance assurance facility that could be used on a voluntary basis by employers needing further guidance on particular expense items.

ATT agreed that giving a warning to employers where an item has been included in a PSA in error rather than immediately penalising the employer would be fair and proportionate. ATT would not want to see any employers being put into a penalty position because of a move away from clarifying the eligible PSA items upfront.

ATT agreed that a digital return could provide efficiencies and cost savings for both employers and HMRC. However, it also pointed out in its response that a large proportion of the 30,000 employers submitting PSAs (as identified by HMRC) are likely to have agents who prepare and administer the PSA on their behalf. Therefore, it will be extremely important that any new digital process is fully accessible for agents.

EMPLOYMENT TAXES

As regards to the proposal to align the submission date for PSAs with that of the P11D process (i.e. a deadline of 6 July following the end of the tax year), ATT commented that whilst it understood HMRC's desire to streamline the number of deadlines employers must meet, and acknowledged that there will be some employers who do complete both the P11Ds and the PSA at the same time, there will be others for whom this will be a detrimental change. Therefore, an impact assessment of the implications for these employers should be undertaken.

ATT did not agree with the proposal to remove 'minor' BIKs from the PSA criteria because of the new "trivial" BIK exemption. There are items which are 'minor' which would not fall within the "trivial" BIK exemption. ATT added that the definition of what meets the 'impracticable' criteria needs to be drawn more widely and only if this is done can any consideration be made for removing the 'minor' criteria. The example given was the cost of an annual staff function that falls outside of the usual exemption. If there is an attendance list then it is not 'impracticable' to divide that cost between the number of employees who attended. That cost per head, though, might only come to £30. Without the retention of the 'minor' category or a widening of the 'impracticable' criteria, the employer would not be able to include the costs of that function in a PSA and each employee who attended would have to be taxed on it. This would be detrimental to the employer-employee relationship and staff morale.

ATT did not think that there should be an exception or cap in respect of office holders, nor that any new safeguards were needed to prevent abuse of PSAs.

The government's response is expected later this year.

Read our response at <http://www.att.org.uk/technical/submissions/simplifying-payee-settlement-agreement-psa-att-response>

Salary Sacrifice for the provision of benefits-in-kind

The ATT provided a brief response to the HMRC Consultation proposing the removal of the tax advantages of receiving benefits-in-kind through salary sacrifice arrangements.

In our response, we endorsed the much fuller response made by CIOT. We also stated that Salary sacrifice schemes are an essential part of remuneration strategies for businesses. They allow employers to attract and retain the best employees. Each employee has different requirements and the ability for individual employees to negotiate their own package is now an essential part of recruitment.

In our view, the proposed changes will lead to scenarios where one employee might be on the same flexible benefits package as another employee but they are taxed differently simply due to whether the package was negotiated before or after joining the firm. This introduces considerable complications to this area and also increase the probability of the employer getting it wrong. It is most certainly not simplification.

Autumn Statement update on Salary Sacrifice Schemes

Despite the comments made by ATT, CIOT and others, the Chancellor announced in the Autumn Statement that the consultation proposals would be going ahead.

Read our Press Release released following this announcement here: <http://www.att.org.uk/technical/newsdesk/press-release-government-fails-heed-warnings-it-moves-forward-salary-sacrifice>

Simplification of the tax and national insurance treatment of termination payments

The ATT responded to the Stage 3 consultation which invited commentary upon the draft legislation to effect the proposed changes that

had previously been consulted upon. The main focus in our response was on whether the draft legislation fulfilled the policy objectives. Those objectives were identified as follows in the Introduction to the Consultation and included:-

- the tax system should continue to provide support to those who lose their job;
- the rules should provide certainty for employees and employers;

The objective of ensuring that the tax system should continue to provide support those who lose their job is substantially met by the Government's decision to retain e £30,000 threshold.

We think that it is too soon to say whether the proposed changes meet the objective of having rules that provide certainty for employees and employers. The proposals have apparently been framed with the objective of making the tax implications of a termination payment dependent on objective facts. In the process, however, they have injected substantially greater complexity into the legislation. Over time, increasing familiarity with the amended legislation may bring the intended certainty for employees and employers. In the short to medium term, however, we think that a post-transaction clearance procedure would be the best way to ensure certainty for employers and employees. If resource constraints make that impossible for HMRC, we think that consideration should be given to the development and provision by HMRC of an online calculator which took the user through the various required calculations and produced (like the proposed online tool for certain IR35 purposes) a conclusion which HMRC could not challenge provided the data entered was complete and correct.

To read our response in full, click here: <http://www.att.org.uk/technical/submissions/simplification-tax-national-insurance-treatment-termination-payments-att>

Autumn Statement Update - National Insurance thresholds

As recommended by the Office of Tax Simplification (OTS), the National Insurance secondary (employer) threshold and the National Insurance primary (employee) threshold will be aligned from April 2017, meaning that both employees and employers will start paying National Insurance on weekly earnings above £157. This will simplify the payment of National Insurance for employers. However, some employees will end up paying more NIC as a result.

Penalty for Participating in VAT fraud

The ATT responded to this Consultation in which HMRC asked if stakeholders considered that there is a good case for introducing a new penalty for participating in VAT fraud and if so, whether stakeholders agreed that the new penalty should be aligned with the 'knowledge principle' which does not distinguish between whether a business or individual knew OR should have known of the connection with VAT fraud.

In response to this question, the ATT replied that, taking into consideration the limited amount of explanation provided in the Consultation, it does not consider that a good case has been made for introducing a new penalty. The ATT obviously supports the premise that those who cheat the system should be penalised but the main justification in the Consultation for the proposed new penalty appears to be administrative convenience. Significantly, such convenience appears to be valued more highly than the established principle that 'Penalties should be proportionate to the offence'.

The ATT also issued a Press Release in connection with this consultation, in which it raised concerns about HMRC's proposal that the new civil penalty would apply equally without HMRC having to distinguish between whether the business or individual actually knew of the connection with the VAT fraud or whether they simply should have known. In our Press Release, Michael Steed, Co-Chair of ATT's Technical Steering Group said:

"For reasons which are not fully explained in the consultation, HMRC is seeking to move away from these important and logical distinctions. The proposal envisages the same penalty being charged whether someone had intentionally masterminded a VAT fraud or at the other extreme had been insufficiently suspicious of a business opportunity which they should have realised was too good to be true."

"We completely understand the importance of HMRC being able to challenge VAT fraud effectively and efficiently and for the tribunals and courts to be able to deal with the cases in

a cost-efficient manner. However, that must not erode the principle that tax penalties should be proportionate to the behaviour of the individuals involved. If current legislation needs reform, that needs to be done without overriding the well-founded principles behind the existing penalty provisions."

Read our Consultation response in full here: <http://www.att.org.uk/technical/submissions/penaltyparticipating-vat-fraud-att-comments>

Read our Press Release in full here: <http://www.att.org.uk/technical/newsdesk/press-release-plan-ignore-taxpayer-knowledge-proposed-vat-penalty-alarms-tax>

Autumn Statement Update - VAT Flat Rate Scheme

The government will introduce a new 16.5% rate from 1 April 2017 for businesses with limited costs, such as many labour-only businesses. The stated objective of the move is to help level the playing field, while maintaining the accounting simplification for the small businesses that use the scheme as intended. Guidance which has the force of law, published on 23 November, introduced anti-forestalling provisions.

To read the ATT's press release on this announcement, go to: <http://www.att.org.uk/technical/newsdesk/press-release-tax-experts-cool-changes-vat-flat-rate-scheme>

FRS 101 and FRS 102 - Guidance published by HMRC

Over the next few years, UK companies will see changes to the accounting practice used to prepare financial statements. In particular, many UK companies will be required to apply one of the EU-endorsed IFRS, FRS 101 or FRS 102.

HMRC have recently published two guidance papers. The purposes of these two papers is to assist companies which are thinking of choosing or have already chosen to apply either FRS 101 or FRS 102. In particular, it provides an overview of the key accounting changes and the key tax considerations that arise for those companies that transition from Old UK GAAP to the new standards.

The guidance papers can be found at <https://www.gov.uk/government/publications/accounting-standards-the-uk-tax-implications-of-new-uk-gaap>

The Second Incomes Campaign

HMRC is running the *Second Incomes Campaign* which gives people who are employed and have additional income that is not taxed the chance to bring their tax affairs up to date.

Who can use this?

People can use the Second Incomes Campaign if they:

- are an employee
- are resident in the UK
- have additional income from working for themselves that has not yet been declared.

What counts as a second income?

A second income could come from a range of activities including:

- organising parties and events
- providing services for example taxi driving, door supervision, football refereeing, catering or fitness training

- buying and selling goods, e.g. at market stalls or car boot sales.

Taking part in the Second Incomes Campaign means they will get the best possible terms.

What you should advise your client to do next

If your client wants to tell HMRC about their additional income, they will need to use the **disclosure service** (<https://www.gov.uk/government/publications/hm-revenue-and-customs-disclosure-service>).

There they will be able to notify, then disclose and pay what they owe within 4 months of receiving HMRC's acknowledgement of their notification.

Get further help and advice: <https://www.gov.uk/secondincomes>

ABOUT US

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DID YOU KNOW....

In October and November of 2016, the Technical Team's two Technical Officers, Will and Alison attended all seven of the joint AAT/ATT Master Classes.

The Master Classes are a popular event each Autumn allowing AAT and ATT members to meet and share ideas as they are guided through some very practical and real life case studies by Co-Chair of the Technical Steering Group, Michael Steed.

Having the Technical Officers present added value for the delegates as they were updated on consultations developments, including the current major project HMRC are undertaking of Making Tax Digital.

This year's Master Classes were held in Manchester, Newcastle, Southampton, London, and Exeter.