



# UK Tax Bulletin

April 2026



FIELD COURT TAX CHAMBERS



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## Latest Rates of Interest

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I have discontinued the rates of inflation chart on the grounds that the Retail Price Index is not particularly helpful. The CPI tends to be used more often.

The following are the latest rates of interest on overdue (and overpaid) tax:

### **Interest on overdue tax**

Interest on all unpaid tax is charged at the same rate.

The formula is Bank base rate plus 4% which gives a rate of 7.75% which applies from 9<sup>th</sup> January 2026.

There is one exception: Quarterly instalments of corporation tax bear interest at 6.25% from 29<sup>th</sup> December 2025 and interest on overpaid instalments is 3.50%.

### **Repayment supplement**

Interest on overpaid tax is paid at Bank base rate minus 1% which gives a rate of 2.75% from 9<sup>th</sup> January 2026

### **Official rate of interest:**

From 6<sup>th</sup> April 2025: 3.75%



## IHT: Gifts out of Income Exemption

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One of the most valuable exemptions from IHT is the unlimited exemption for gifts out of income which is provided by section 21 IHTA 1984.

The general idea will be pretty well known but there are trip wires – which were recently highlighted by the FTT in *Hosking v HMRC TC 9824*.

The main conditions of section 21 are that the gift:

- was made as part of the normal expenditure of the transferor, and
- taking one year with another, it was made out of his income, and
- he was left with sufficient income to maintain his usual standard of living.

For gifts to be regarded as *normal* expenditure they must form part of a settled pattern of expenditure of the donor, as explained in *Bennett v HMRC [1995] STC 54*, such as a regular payment each year – or a commitment to make regular payments. The amounts need not be the same – nor the recipient – but a settled pattern does need to be established.

The reference to “taking one year with another” is intended to indicate that there may be ups and downs with a person’s income, so you can look at this over a number of years to see whether that test is satisfied. After all a self employed person might make a loss one year and that would otherwise scupper everything.

It also needs to be recognised that there are some anti avoidance rules which may interfere with the relief, for example that the tax exempt element of a purchased life annuity is not regarded as income for this purpose, by reason of section 21(3).

Mr Hosking made some very substantial gifts during 2016 to the Vote Leave campaign and Brexit Express totalling £1.7m which were well within his income, and about 70 donations totalling £4m to Brexit Express in subsequent years.

HMRC denied the exemption on the basis that there was no settled pattern or any commitment for the expenditure; Mr Hosking just made sporadic donations to these causes when he felt like it.

The Tribunal accepted that the gifts were not out of character or abnormal and in that sense, they were part of his normal expenditure. However they said this was



not enough. The gifts were not part of a settled pattern or commitment because there was a lack of any predictability or regularity; they were just donations of varying amount at varying times.

With this helpful clarification, it is easy enough to see what needs to be done to secure relief for such gifts – but in another case, the conditions about the gifts coming out of income, and whether there was sufficient income left over to maintain the usual standard of living, may not be so easy to satisfy.

## Marshmallows

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Some tax issues are important, some are absolutely fundamental and some are completely off the scale.

A year ago, I wrote about the fierce dispute which has been raging about the tax treatment of marshmallows. There are little ones, medium ones, and Mega ones. It is obviously of the greatest importance to the nation for our attention to be focused on whether all or any of them should be regarded as “confectionery” and therefore subject to VAT.

In the case of *HMRC v Innovative Bites Ltd* the FTT said that Mega marshmallows were not confectionery. OK fine. So lets move on.

However, that was not the end of the matter (or barely the beginning) because the Upper Tribunal then had a go, and on it went to the Court of Appeal to make a decision. That should be pretty conclusive – except that the decision of the Court of Appeal was to send the case back to the First Tier Tribunal to think about it some more.

You couldn't make it up. It would seem to be the perfect candidate for an April Fool – but sadly not. And on 1<sup>st</sup> April 2026 I received the latest judgment from the FTT – but this was not an April Fool either.

The FTT have again said that that Mega marshmallows were not confectionery. *HMRC v Innovative Bites Ltd TC 9831*. So here we go again, perhaps.

I think I have had enough of this. When my children ask: what do you do all day, daddy? I could never admit to this.

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## Situs: Loan Notes

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Where an asset is located can be extremely important in determining its exposure to UK tax – although possibly of less significance since 6<sup>th</sup> April 2025 when the remittance basis was largely abolished and long term residence replaced domicile as the key determinant for tax in the UK.

Section 275 TCGA 1992 provides the statutory situs rules for capital gains tax and this has recently been examined in the case of *Seghal v HMRC TC 9835* where the taxpayer claimed that his loan notes were situated in Jersey – and therefore outside the scope of CGT, at least until remitted.

They don't make it easy. Under the general law (and for IHT purposes) a simple debt is situated where the debtor is resident. However, for the purposes of CGT it is where the *creditor* is resident: section 275(a).

Debentures of a UK company are situated where the company was incorporated: section 275(da). (However, I wonder what will happen with this test when they introduce the planned redomiciliation rules).

In *Seghal* the question related to “registered debentures”; these are situated where they are registered: section 275(e).

So the whole case revolved round what is meant by a “register” for this purpose. I promise you – you really don't want to know. What we can take from all this is that if you have loan notes in a foreign company, the rules about where they are situated (and therefore vulnerable for tax purposes) may be different depending on which tax you are looking at.

## Loans to Employees

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I was seriously puzzled by the decision of the Upper Tribunal in *HMRC v MR Currell Ltd* (and even more so by the decision of the Court of Appeal). I will explain briefly just in case anybody else is equally perplexed.



What happened is that MR Currell Ltd made a contribution of £800,000 to an employee trust. The trust lent Mr Currell the money and he used it to buy shares in the company from his wife (no CGT of course being a spousal transaction). Mrs Currell then introduced the £800,000 to the company by way of loan – which was then available to be drawn out tax free in due course.

The Upper Tribunal and the Court of Appeal held that the loan to Mr Currell was genuine and did not represent earnings under section 62 ITEPA 2003.

My reaction was Wow! What a great plan. But surely.....

The explanation came right at the end of the Court of Appeal's judgment where they said:

“HMRC are obviously of the view that Mr Currell should not have been able to “access tax-free cash” from the Company in the way that he did. Parliament evidently agreed. If the transactions had been implemented only a short time after they were, the charge that HMRC seek to impose in this case would have arisen on the Loan under the provisions of Part 7A of ITEPA (often referred to as the “disguised remuneration” rules), which were inserted by Finance Act 2011”.

So (subject to a possible appeal to the Supreme Court) it was just a matter of good timing. It is therefore not of any practical application now – except for people who are still arguing about pre 2011 transactions.

## Discovery Assessments

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The conditions to be satisfied in section 29 TMA 1970 in order for HMRC to issue a discovery assessment are extensive and complicated. Serious difficulties arise because we must ignore the real situation and consider the position and assumed understanding of a hypothetical tax officer who has a number of uncertain characteristics. And these things will vary from case to case. It is no surprise that these provisions rarely provide any real protection for the taxpayer, which one might reasonably have supposed was their purpose.

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I have gone on at length about all this before, but I want to concentrate on one issue which was considered in the recent case of *Rune Madsen v HMRC TC 9854* about which I would respectfully say that the Tribunal has injected a welcome breath of fresh air into the subject.

One critical condition of whether a discovery assessment can be issued is that:

“the officer could not have been reasonably expected on the basis of the information available to him before that time [*the deadline*] to be aware of the situation mentioned in subsection 1 above” [*that an assessment to tax is insufficient*]: section 25(3)

That of course gives rise to a lot of different judgments about what could reasonably have been expected, but it is made worse by the fact that the reference to “the information available to him” does not mean what it says. Section 29(6) imposes a very restrictive meaning to the effect that even though HMRC may have absolutely 100% of all the information it could possibly require, all that information can be ignored if it was not provided by the taxpayer himself, or by a person acting on his behalf.

An important part of the judgment in *Madsen* dealt with exactly this point. The case in fact concerned SDLT which of course has its own tax code, but it is accepted that rules relating to discovery assessments are the same.

The taxpayer submitted an SDLT return which by itself was not regarded as being enough to make the hypothetical office aware of an insufficiency.

(In fact, HMRC had loads more information about the SDLT avoidance scheme used by the taxpayer, which, in real life would have been very important, but that information had not been provided by the taxpayer, or by a person acting on his behalf, so it could be ignored).

The crucial issue was whether an explanatory letter written to HMRC by a third party specifically about the transaction could be taken into account.

HMRC said that the person writing the letter was not the registered agent and HMRC did not recognise him as a person acting on the taxpayer’s behalf – but the Tribunal said that this did not matter. There was no



statutory requirement that HMRC had to “recognise” the person. The letter was written at least partially on Mr Madsen’s behalf and that was enough to satisfy the condition.

Furthermore, the Tribunal considered that the information in the letter would have given the hypothetical officer sufficient information for the purpose of raising a discovery assessment.

This might be thought to be a close call because one can see how easily it could have gone the other way, but the application of common sense into these really difficult provisions is greatly to be welcomed.

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