UK Tax Bulletin

August 2026

Field Court Tax Chambers

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Latest Rates of Interest

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.

I will bring it back if a present or future Chancellor has a brainwave and comes up with a new, novel, idea of indexation for capital gain tax.

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 9th January 2026.

There is one exception: Quarterly instalments of corporation tax bear interest at 6.25% from 29th 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 9th January 2026

Official rate of interest:

From 6th April 2025: 3.75%

The Budget

The Chancellor is going to deliver his Budget on 28th October.

Goodness knows what is going to come out of his hat (aka Red Box) this time.

There are rumours galore and there will be more as we get closer. My inbox reveals widespread anxiety as well as commercial, financial and property paralysis which I imagine will continue for the next two months.

IHT: Business Property Relief

The recent case of *Beresford v HMRC [2026] UKUT 285* is another illustration of how difficult it is to obtain BPR when the business has anything to do with land.

Section 105(3) IHTA 1984 disqualifies the business from the relief if it:

> "consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings or making or holding investments".

HMRC have consistently taken the view that being paid for something which includes the use of a property, is a business which consists wholly or mainly of making or holding investments, no matter how extensive the services which are provided.

There are a long list of cases where the services provided are really extensive but it is only in the rarest of cases (such as *Vigne* and *Graham*) that the taxpayer has succeeded, despite the factual background being virtually indistinguishable from the rest.

In *Beresford* the taxpayer's company carried on a business of providing serviced offices – the emphasis being on the "service " bit. However, we have been through all this before and this case is really no different. The FTT and the Upper Tribunal concluded that the company was wholly or mainly carrying on a business making or holding investments.

This is just another one to add to your research list if your have a potential BPR claim on a business which has anything to do with land.

It is not for me to agree or disagree with the conclusion (except to note that decisions of the Upper Tribunal are binding) but I remain puzzled about the position of hotels. Everybody seems to agree that a hotel is a business qualifying for BPR because it is not wholly or mainly making or holding investments – but I simply cannot understand why not.

A hotel consists of land and buildings so it is obviously on a sticky wicket and the only way it can possibly qualify for BPR is because of the extent of the services provided.

I have spent a good dealt of time in hotels over the years and in my experience many hotels provide a room which is (usually) cleaned daily but they do not "provide" anything else. You have to pay for nearly everything else – telephone calls, internet, food and even water in some cases; and don't even look in the fridge! The services provided in some of the unsuccessful BPR cases are considerably greater than in some hotels.

The position with hotels was mentioned in *Beresford* where the Tribunal referred to a spectrum of cases. The simple letting of land was at one end of the spectrum (obviously an investment activity) and at the other end was "the exploitation of land by means of a trade carried out on the land, such as a hotel or shop."

The conflation of a hotel and a shop is difficult to follow. You go into shop not to use the premises but to buy products sold by the shop. So the frequent references to "a hotel or shop" in the judgment do not help us to understand why a hotel is not disqualified.

Part of the reasoning of the Tribunal was that:

> "a hotel guest receives transient access to whichever room the hotel allocates, with no expectation of consistency or exclusivity."

This seems a bit doubtful to me. The access to a hotel room is no more "transient" than the occupier of a serviced office for a defined period, and (I don't know about you), but when I am a guest I certainly expect exclusivity. And the guest may well require a specific room, not a random room allocated by the hotel.

It would seem to be entirely consistent with Beresford and nearly all the earlier Tribunal decisions, to conclude that a hotel is a business which mainly consists of holding an investment and is therefore disqualified from BPR. Clearly that conclusion would be wrong, but I am still struggling to understand why.

Loans to Participators: Section 455

Everybody knows about the tax charge which arises when a loan is made by a close company to a participator or an associate. Section 455 CTA 2010 requires the company to make a payment to HMRC equal to 33.75% of the loan. The company can recover the amount from HMRC under section 458 if the loan is repaid to the company, or if the debt is released or written off – although of course if the loan is released or written off, it becomes taxable as income on the participator under section 415 ITTOIA 2005.

The meaning of *released* or *written off* is therefore crucial in determining the tax position of the participator – and this was examined in the recent case of Quillan v HMRC.

What happened was that Mr Quillan had an overdrawn loan account of £400k and when the company was wound up the liquidator sought repayment; unfortunately, Mr Quillan had insufficient assets to repay the money.

The liquidators enquired of the creditors whether they wanted to finance an action for recovery, but they didn't – and the company was dissolved. The loan was not released or written off by the liquidator – and it was specifically acknowledged that he would be able to restore the company and pursue the debt if Mr Quillan were to come into a substantial sum of money.

The FTT held that the loan was not written off. Although it was impractical or uneconomic for the liquidator to pursue Mr Quillan for the money at the moment, he could do so later if the possibility were to arise. Accordingly there was no charge to tax on Mr Quillan.

However, the Upper Tribunal have taken a contrary view: *HMRC v Quillan [2026] UKUT 300* .

The Upper Tribunal held that the words "writes off" in section 415 should be construed purposively in their statutory context. They considered that the purpose of section 415 was to deal with the position where :

> "the assets of the company have been depleted (by the release or write off) and the participator has benefited."

This would seems to be rather circular because it refers to a position where the loan has actually been written off – so section 415 would obviously apply. It does not help to answer the crucial question of whether the loan has been written off.

The Upper Tribunal went on to say that Mr Quillan was in a better financial position by reason of the liquidators decision not to pursue him. I wonder about that too. Mr Quillan had no funds; he had a debt he could not pay. He was no better off by the liquidator deciding not to pursue him; he could not pay it anyway. But he still owed the money and the liquidator would pursue him if he came into funds – so it is difficult to see how it can reasonably be said that he was in a better financial position.

Indeed the Upper Tribunal also accepted that, on their interpretation, if Mr Quillan was charged to tax now on the amount outstanding, and in due course his circumstances improved and he had to repay the loan, there would be no relief for the tax he had paid. Apart from the grotesque unfairness, this would seem to be an acknowledgement that the loan was still outstanding.

A purposive interpretation would seem to require that Mr Quillan should be charged to tax when the loan was released or written off – in the sense that it was no longer payable.

HMRC will no doubt be pleased that the decision of the Upper Tribunal corresponds with their view of the matter as set out in the Company Tax Manual at 61560:

> "where the liquidator does not write off or release the loan balance, but, on a balanced view of the facts, it is clear that the company and/or liquidator are not intending to pursue the outstanding loan, e.g. where they are not making any attempts to collect it or have given up any attempts to do so, then we should argue that the loan has been written off and that S415 ITTOIA05 should apply to the relevant amount."

(I expect that the accountants would say that a company may write off a debt in its accounts as a matter of prudence if there is no reasonable prospect of the debt being paid. This would be a unilateral act in order for the accounts show a true and fair view, but it would not release the debtor from his obligation to pay. That would be a reasonable interpretation of the term "writes off". But it would not seem to be an appropriate interpretation in the context of section 415 if the debtor's obligation to pay remains in existence. Interestingly, the Upper Tribunal said that they did not consider the accounting treatment to be material).

However, whatever view one may take of the matter, this is now the position – subject of course to any further appeal.

Substantial

One of the many uncertainties with Business Asset Disposal Relief (the relief formerly known as something else) is the definition of a trading company in 165A(3) TCGA 1992:

> "a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities".

Section 165A(4) goes on to explain what trading activities mean, but there is no further assistance about what is meant by "to a substantial extent".

The view of HMRC is set out in the CGT Manual at paragraph 64090 where they say:

> "substantial in this context means more than 20%".

But we can forget about that because the Upper Tribunal said in the case of *Allam v HMRC [2021] UKUT 0291* that: "it is not appropriate to apply any sort of numerical threshold as suggested by HMRC's guidance".

The Upper Tribunal did not think much of HMRC's reliance on the IHT case of *Farmer v HMRC SPC 216* either. That was a case about a completely different relief, for a completely different tax in a completely different statute.

Views on the meaning *substantial* range from "mainly", down to something just above insubstantial. No assistance can be derived from tax legislation either. For the Substantial Shareholding Exemption it means 10%; for Social Enterprise Relief it means 30%; for SDLT substantial performance it is "most". (I could go on).

We now have some more guidance from the FTT in the case of *Pontin v HMRC TC 9985.* The company was engaged in property investment and property development. The judge relied heavily on the judgment in *Allam* which had said:

> "*substantial* should be taken to mean of material or real importance in the context of the activities of the company as a whole…. The test is not confined to physical human activity but requires an overall consideration of what it is that the company does".

The FTT considered the management activity of each element of the business, the income, expenditure and assets, and concluded that most of these factors showed that the property development business predominated. That is not enough of course – was matters is whether the non trading activities were carried on to a substantial extent.

Using the *Allam* formulation, the FTT said that the non trading activities were not of material or real importance in the context of the activities of the company - and therefore were not substantial – so Mr Pontin qualified for his relief.

Fiduciary Duties

I rarely stray from tax issues but my eye was caught by the recent case of *Lux Films Ltd v Fowler [2026] EWHC 963* because it involved circumstances which crop up from time to time, directly or indirectly.

Mr Fowler was a shareholder and director of Lux but he decided to be (in his own words) "a bit naughty" and secretly diverted business and clients from Lux to another company of his own to the tune of £450,000 over an 18 month period. He knew it was wrong but he thought it would be too difficult for the company to prove. It wasn't. He put his company into voluntary liquidation thinking that this would save him. It didn't. He was declared bankrupt probably hoping that this too would frustrate the proceedings. No luck there either. To put it crudely, Mr Fowler copped it good and proper.

The judgment examines in great detail the fiduciary duties of directors and it will be of real interest (and help) to anybody who comes across this sort of thing. And it will be a salutary lesson to any actual or potential perpetrator.

(The judgment regrettably did not get into the numerous tax implications – and neither will I, at least for the moment.)

It is quite usual on the departure of a senior employee for there to be non-compete clauses and they can sometimes be difficult to enforce. However, diverting your employer's business to your personal advantage whilst still employed (and being paid), and using all the facilities, funds and reputation of your employer, is definitely something else.

Coincidentally the Supreme Court have recently examined a closely related topic, the scope and meaning of a director's duty of good faith, and they have a lot to say on the subject (which Mr Fowler would not have found very pleasing): see *Saxon Woods Investments Limited and others v Francesco Costa [2026] UKSC 21*.

The consequences for such naughtiness are clearly racking up.

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