# UK Tax Bulletin

October 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

Well, there was a Budget on Wednesday; you may have noticed. Or under the circumstances, you may not. I will refrain doing one of those summaries – because we all get lots of them – but just mention a few things which struck me as (a bit) interesting.

I was captivated to read that "the government will open a new window" for businesses who seek a suspension of tariffs. (I have no idea what this means. Maybe they have been speaking to that nice Mr Putin; his window is aways open).

The tax rate on property and savings income (but mercifully not dividends) goes up another 2% across the board – up to 49% at the top end.

There is going to be a new "Capital Gains Tax Founders' Relief" from 6 April 2027, with a 10% CGT rate on £10 million of lifetime gains on disposals of shares. Wow. It looks rather like Entrepreneurs Relief – but I am sure we are not supposed to notice that. It will apply to UK resident individuals who have held 25% of the UK trading company's share capital for 5 years. It must employ at least 15 people and have a turnover of at least £10m in the year of disposal; it must also have at some time spent £1.5m on research and development… and loads of other conditions. You get the idea. It is welcome… but I think there may be just too many conditions to make it attractive.

Entrepreneurs Relief (Business Asset Disposal Relief) keeps on going down; it will be reduced to only £500,000 in April. Nope – nor me.

(I don't think they can make their mind up about entrepreneurs).

There will be a change in the tax treatment of image rights payments which are related to an employment; they seem to be focusing mainly on footballers. The image rights will be taxable as employment income from 6 April 2028. We knew this was coming and the details will be in the Finance Bill. Litigation will assuredly ensue.

The capital gains exit charge that applies when a trust ceases to be resident in the United Kingdom is being modified. They say this will make it easier for globally mobile talent to relocate to the UK more quickly. Goodness knows how they come to that conclusion, but never mind.

The idea here is to deal with the problem where a non resident trustee becomes temporarily UK resident (and inadvertently makes the trust UK resident) so that an exit charge under section 80 TCGA 1992 arises when they become non resident again. The exit charge will now not arise if the trustee ceases to be UK resident later that year or the following year.

There is an immediate change to the IHT rules for the deduction of liabilities in trusts to align them with the rules for individuals. This looks a bit obscure and benign but it is not. It is an attempt to reverse the rules following the decision of the Court of Appeal in *Elmore* relating to a home loan plan where HMRC's view was rejected.

The icing on the cake was the announcement that the Gas Shipper Obligation Tax will not be introduced after all. (Who knew?) There will be dancing in the streets.

## Employees' Expenses

I have often banged on about the difficulties (or absurdities) surrounding the deduction of expenses from employment income. Well, there is some good news.

An employee is allowed a tax deduction by s.336 ITEPA 2003 for an expense if:

a) "The employee is obliged to incur and pay it as a holder of the employment and,

b) The amount is incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

The first condition is that the expense must be necessary by reason of the employment, and not merely necessary for the particular employee. So every employee must be obliged to incur the expenditure to do his job, for this limb to be satisfied.

The second condition is more demanding. The expense must be incurred wholly, exclusively and necessarily in the performance of the duties. The House of Lords in *Fitzpatrick v IRC 66 TC 407* explained that doing something in preparation for the work is not enough; it has to be "in the performance of the duties".

It is the act of incurring the expense (and paying the money) which must be done in the performance of the duties of the employment. When the taxpayer spent the money, was he actually performing the duties of his employment? Almost certainly not – unless his job was perhaps to observe the behaviour of shopkeepers at the point of sale of their product. If he was buying a pen and paper for his work, no deal; that would merely be a preparatory act.

This just goes to demonstrate what a strict test is imposed by the legislation. The fact that the test is virtually impossible to satisfy has not (unfortunately) caused any judicial flexibility in its interpretation.

Section 337 specifically allows a deduction for travel expenses where:

- The employee is obliged to incur and pay the expenses as holder of the employment, and

- The expenses are necessarily incurred on travelling in the performance of the duties of the employment.

The conditions here are not quite as strict. If you are an employee and have to travel to meet a customer, that would seem to be within the scope of section 337 - although in nearly every case the employer would pick up the tab. What this really means is that the employer would reimburse you (and it would go on your P11D and be taxable) but you can deduct the cost, leaving you in the same position.

I am mentioning all this because of a recent case involving British Airways where pilots were provided with accommodation at the airport for mandatory rest between flights. The cost of the accommodation is a taxable benefit and the issue was whether they were entitled to a deduction under section 337: *HMRC v British Airways Plc [2026] UKUT 366.* (To be more precise, it was all about liability to NIC, but that did not apply if section 337 was satisfied).

Both the FTT and the Upper Tribunal held that while the pilots were resting at the accommodation they were travelling in the course of performing their duties and that the expenses involved were necessarily incurred.

I would not want to disagree with this conclusion, but I am puzzled how it can be said that the employees satisfied section 337(1) – the bit where it says that the employee is "obliged to incur and pay" the expenses. The employees did not

incur the expenses, nor did they pay them; they were incurred and paid by the airline. However, the decision (which is binding) is a much more sensible answer.

Maybe this could be the start of a trend.

## CGT: Irrecoverable Loans

The recent case of *Bunting v HMRC [2026] EWCA Civ 1331* highlights a serious trap when it comes to claiming capital gains tax loss relief where money lent to a trading company becomes irrecoverable. Sadly, not an unusual situation.

Mr Bunting had lent £2m to his trading company and it had become irrecoverable. Section 253(3) TCGA 1992 provides that an allowable loss arises for CGT purposes when:

> "a person who has made a qualifying loan makes a claim and at that time … any outstanding amount of the principal of the loan has become irrecoverable"

That sounds fine – except that Mr Bunting decided to convert the loan into shares. He received some shares in the company in satisfaction of the loan. (The shares were worthless and I think the idea was to get an income tax deduction for a loss on the shares. Er, whoops).

HMRC refused his claim for relief on the grounds that the loan was discharged by the issue of shares, so at the date of his claim there was no "outstanding amount" as required by section 253(3).

The Court of Appeal has now authoritatively held that there must be an amount outstanding to satisfy the terms of section 253(3). The loan ceased to exist when it had been applied in the subscription of the shares and could not be regarded as outstanding.

Everybody agreed that Mr Bunting had made a genuine loss which satisfied the terms of section 253 and he would have been entitled to make a claim for relief before he subscribed for the shares. But he didn't. The acquisition of the shares deprived him of the relief even though the shares were worthless.

# Judicial Review

Whether or not the FTT has the jurisdiction to hear applications for judicial review has become a bit of an issue. Obviously, it would make sense for them to have the necessary jurisdiction so that it is accessible to taxpayers, rather than having all the trouble and cost of applying to the higher courts; however, there may be good policy reasons why not.

The courts have been a bit equivocal about this and there have been decisions both ways – which is one good reason for them to be able to do so. What can be more futile than a court hearing over whether the court has jurisdiction to hear your appeal.

The latest decision on the matter, *Abbey Group Ltd v HMRC TC 10048* concluded that they did not have jurisdiction. As this was a First Tier decision, I guess the matter is still at large.

However, the FTT did go on to say that even if they had jurisdiction they would have dismissed the application – but I was a bit puzzled about some of their reasoning. Not that it matters because they had refused the application - but anyway.

A typical JR application arises when the taxpayer is advised by HMRC about a particular tax treatment and the taxpayer acts in accordance with the view expressed by HMRC. Providing the taxpayer has put all his cards on the table and the explanation of HMRC is unambiguous and devoid of any relevant qualification, then the taxpayer may claim that he has a legitimate expectation that HMRC will not go back on their word and charge tax for the earlier period for which they said there wasn't any tax payable.

It was agreed that Abbey would have a legitimate expectation if:

> (a) HMRC had given Abbey a clear, unambiguous assurance that was devoid of any relevant qualification regarding the VAT treatment. This could be by way of general guidance or a specific statement or ruling given to a taxpayer.
>
> (b) Abbey had 'placed all its cards face up on the table' in the sense of giving full details of the transaction on which the ruling is sought.

(c) It would be unfair for HMRC to resile from its statement.

The FTT confirmed that HMRC did provided a clear, unambiguous statement and that Abbey gave full details of the transaction on which the ruling was sought. But they then said:

- The effect of preventing HMRC from raising the assessment would be to permit Abbey permanently to retain input tax which the legislation did not allow it to recover.

- Whilst Abbey acted openly and honestly they did not consider that the unfairness arising from HMRC's change of position reaches the high threshold required before a public authority is prevented from applying the legislation as enacted by Parliament.

But isn't the whole point that the advice given by HMRC will have been incorrect? That is why there was a Judicial Review. To say that a Judicial Review is not available if the view of HMRC was wrong because they cannot be required to stick with a view which is contrary to law, would seem to undermine the whole purpose of a Judicial Review.

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**31st October 2026**

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