UK Tax Bulletin

September 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.

I still don't have a clue what it will contain but I am very flattered by the number of requests I have received for likely details – by people who I guess presume I have a line to the corridors of power. Sadly not. But next month ……..

Employment Status

The task of trying to identify (or to advise on) whether a person is employed or self-employed is really difficult, particularly in the context of IR35, the Intermediaries and Personal Service Companies legislation.

An employment is essentially a matter of personal service, so it is traditional for a contract for services to contain a right of substitution, enabling the individual to send somebody else to do the work to satisfy the contractual obligations. It is inconsistent with an employment to be able to send somebody else to do the work. This was a crucial factor in *Express & Echo Publications Ltd v Tanton* [1999] EWCA Civ 949 and is acknowledged by HMRC.

However, the right of substitution must be a genuine term of the contract and not just there for show without any intention (or realistic possibility) of it actually being invoked.

It is therefore with surprise and alarm that I read that the new Right to Work rules which come into force tomorrow, provide that where an individual substitution is permitted, the substitute must be treated as an employee.

Section 48 of The Border Security, Asylum and Immigration Act 2025 extends the meaning of employee to engaging a subcontractor. This is further extended to contractual arrangements which allow for substitution by causing the substitute to be treated as an employee.

This is not a tax issue (at least not yet) but just gives the subcontractor and the substitute the benefit of the Right to Work rules – which will not bother them very much. However, it will surely bother the "employer" because one of the reasons for engaging a subcontractor is to avoid the obligations of having an employee

which may make their engagement uneconomic.

It is not clear that this will impact fully on IR35 and personal service companies because this legislation specifically applies to individuals – but we shall see.

IHT Business Property Relief

A perennial problem with trusts is that although assets may qualify for BPR when they are settled, so that no IHT arises on the transfer, if the settlor dies within 7 years, section 113A(2)(b) IHTA 1984 causes the transfer to become chargeable on his death unless the assets still qualify for BPR at the date of his death.

That is real trap for the unwary, but the Finance Act 2026 has made the position for trusts even worse with the restriction on 100% BPR to £2.5m.

A new section 124H restricts BPR even further for trusts. For chargeable lifetime transfers made after 5th April 2026 (and potentially exempt transfers made after 29th October 2024 where the transferor dies after 5th April 2026) the 100% "allowance" is restricted to the value of the assets when they were settled. So, on a ten-year (or exit) charge they will not get the 100% relief on the full £2.5m, but only on the value of the assets when they were settled.

Accordingly, if you settle assets worth £1m and they have grown to £2.5m after 10 years, the trustees might reasonably suppose that the 10 year charge would be zero because of the 100% relief. Unfortunately not – the 100% BPR would apply to £1m and the balance of £1.5m would only have 50% relief.

This looks really tough, but it seems clearly to be the intended purpose of the new provisions – and is confirmed by the IHT Manual at IHTM2552.

Domicile

The concept of domicile has lost much of its significance following the changes in 2025, but it will remain a live issue for years prior to 2025/26 and for a number of other things such as CGT rebasing and excluded property.

So, cases like *Sir John Griffin v HMRC TC 10016* are still relevant and interesting – if you are interested in that sort of thing.

Domicile cases are always heavily fact dependent but I find that it is the underlying principles which are important to identify - especially when you have domicile cases waiting to be heard by the Tribunal.

This case concerned Mr Jack Griffin who was born in Ireland in 1915 with an Irish domicile of origin. He came to England in 1935 and served in the Irish Guards. He got married, and in 1942 had a son, John.

It was accepted by everybody that Jack had an Irish domicile origin and had not acquired a domicile of choice in England at the time of Sir John's birth, so Sir John had an Irish domicile of origin.

The question was whether Jack acquired a UK domicile of choice before Sir John reached the age of 21 in 1963 because that would give Sir John a UK domicile of dependence which would have become a UK domicile of choice when he reached the age of 21.

An additional question was whether, even without a UK domicile of dependence, Sir John later acquired a UK domicile of choice.

It sounds a bit complicated, but this is not an unusual set of circumstances.

The Tribunal found that Jack did acquire a UK domicile of choice by 1963 and that in any event Sir John had acquired a domicile of choice. So, game over.

There was plenty of evidence to support the conclusion that Sir John had acquired a UK domicile of choice and although it would have made no difference to this conclusion, there are various passages in the judgment which are rather questionable.

For example, in paragraph 183, the Tribunal refers to whether Sir John had acquired a domicile of origin upon attaining majority. The Tribunal was obviously confusing the concepts of a domicile of origin and a domicile of dependence.

In paragraph 192 in referring to Sir John's established attachment to Ireland the Tribunal says:

> "The authorities draw an important distinction between emotional attachment to a country and an intention to reside there permanently".

Yes, they do – but not in this context. This is the wrong way round. The intention to reside in a country permanently is a domicile of *choice* test. It is not a test for determining a domicile of *origin.* This is an important misunderstanding because a domicile of origin is never a matter of intention.

And in paragraph 193, the statement that a "critical" question was whether Sir John had a "settled intention to return there [to Ireland]" is again back to front. That is not the question. And it is certainly not critical. The critical question is not whether he intended to return to his home country, but whether he intended to reside permanently here. An intention not to return to Ireland but an intention to go somewhere else (anywhere would do) would preclude the acquisition of a domicile of choice.

As it happens, there was lots of evidence to support the conclusion Sir John was residing here permanently or indefinitely, so these matters could not reasonably have interfered with the conclusion – but it would have been very interesting if the evidence regarding his long term residence had been more finely balanced.

Information Notices

The Finance Act 2026 has introduced some additional powers for HMRC to issue information notices to supplement the rules in Schedule 36 FA 2008 – as if Schedule 36 is not bad enough.

However, the new rules are mainly directed at promoters of tax schemes so

maybe not relevant to most of us – except that it includes "connected persons" which has a whole new definition for this purpose which will inevitably bring innocents into the frame.

A connected person is anybody such as directors, partners, trustees and advisers who are connected to a person who is or has been contravening an anti avoidance enactment. It also includes anybody who is involved in making such arrangements or managing or organising or benefiting from them - although legal professional privilege is preserved for the most part.

The definition of an "anti-avoidance enactment" is mercifully narrow, bearing in mind how much of he tax code is concerned with anti-avoidance, TAARs and such like. It is confined to DOTAS and its derivatives and all the promotor legislation. Mind you, DOTAS is pretty wide these days.

The new powers enable Anti-Avoidance Information Notices to be issued to all these people, which in effect is anybody who HMRC reasonably suspects may know anything about the tax scheme.

There can be no doubt about the seriousness of not complying with one of these new notices, because they carry civil and criminal sanctions.

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