

# Global Tax Update

## United Kingdom

Deloitte Tohmatsu Tax Co.

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### 1. The Corporation Tax (Instalment Payments) (Amendment) Regulations 2017

The Corporation Tax (Instalment Payments) (Amendment) Regulations 2017 will come into force on 1 April 2019. They amend the Corporation Tax (Instalment Payments) Regulations 1998 which provide that companies that are defined as large are required to make instalment payments on account of their corporation tax liability in advance. At the Budget on 8 July 2015, the Government announced that companies with annual taxable profits of over £20 million, or if a member of one or more 51% groups, a proportion of this amount ('very large companies') would be required to make payments four months earlier than previously. This measure was originally planned for accounting periods commencing on or after 1 April 2017. It was announced in Budget 2016 that commencement would be postponed from April 2017 to April 2019. See <http://deloi.tt/2zmyW0q>

### 2. Senior Accounting Officer Update

It is clear from a recent update from HMRC's policy team that Senior Accounting Officer (SAO) remains a core component of what HMRC's increasingly integrated 'co-operative compliance' agenda. Penalties continue to be levied in respect of the late/incomplete filings but no main duty/inaccurate certificate penalties have been raised in the last year. Awareness of SAO is being emphasised in HMRC's new training for CRMs, and it seems likely that there will be more penalty referrals in respect main duty failures or inaccurate certificates in future. HMRC has also been trialling a more automated approach to prompting and monitoring SAO filings, which may, if rolled out nationally, lead to a spike in administrative penalties in the short term as missing entities are spotted through automatic cross-checking of submissions and Companies House information.

### 3. VAT: OECD: new guidance on cross-border VAT collections

The OECD has released new guidance to support the consistent implementation of internationally agreed standards for the VAT treatment of cross-border trade, in light of the rapid and ongoing digitalisation of the economy. The boom in e-commerce and its impact on the collection of VAT on business to consumer (B2C) supplies was identified as a key tax challenge in the context of the G20/OECD BEPS project. The new guidance Mechanisms for the Effective Collection of VAT/GST Where the Supplier Is Not Located in the Jurisdiction of Taxation builds on good practice approaches deployed by jurisdictions when they require foreign suppliers to register and collect VAT on cross-border B2C sales, as recommended in the 2015 BEPS Action 1 report. The new guidance will support enhanced compliance levels while limiting compliance costs for digital suppliers, by promoting the consistent and coherent implementation of collection mechanisms across jurisdictions. See <http://deloi.tt/2yOsExF>

### 4. VAT: Littlewoods: no compound interest on VAT claims: Supreme Court

The Supreme Court has rejected Littlewoods' claim for compound interest (of £1.25 billion) on VAT repayments of £205m for 1973-2004. The Court held that Littlewoods' claim for restitution was, under UK legislation, prevented by the provisions for statutory interest in section 78 VATA 1994 (which Parliament had intended to be the only route for obtaining interest). The Court further determined that there was no right in EU law to compound interest. The CJEU's judgment in Littlewoods had endorsed a general entitlement to interest, but left it to Member States to determine whether it should be paid on a simple or compound basis (provided that it was an 'adequate indemnity'). In the view of the Supreme Court, the CJEU had indicated that simple interest (of £268m)

was reasonable redress, and it noted that various other Member States award simple interest. Therefore, the Supreme Court felt that payment of simple interest in this case did not deprive Littlewoods of an adequate indemnity. The judgment means that claims for compound interest cannot be pursued through a High Court claim. It is possible that other taxpayers with Tribunal appeals may seek a further reference to the CJEU, but the Supreme Court's assertion that no further reference is needed makes it highly unlikely that such an approach would succeed. See <http://deloi.tt/2A3cBZL>

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