The Construction Industry
Joint Taxation Committee

JTC

JTC NEWSLINE

Issue 148 March 2021

Points of interest from the Budget - March 2021

- Furlough to be extended until the end of September.
- Government to continue paying 80% of employees' wages for hours they cannot work.
- Employers to be asked to contribute 10% in July and 20% in August and September.
- Support for the self-employed also to be extended until September.
- 600,000 more self-employed people will be eligible for help as access to grants is widened.
- £20 weekly uplift in Universal Credit worth £1,000 a year to be extended for another six months.
- Working Tax Credit claimants will get £500 one-off payment.
- Minimum wage to increase to £8.91 an hour from April.
- No changes to the rates of income tax, national insurance or VAT.
- Tax-free personal allowance to be frozen at £12,570 from April 2021 levels to 2026.
- Higher rate income tax threshold to be frozen at £50,270 from April 2021 levels to 2026.
- Corporation Tax on company profits above £250,000 to rise from 19% to 25% in April 2023.
- Rate to be kept at 19% for about 1.5 million smaller companies with profits of less than £50,000.
- Stamp duty holiday on house purchases in England and Northern Ireland extended to 30 June 2021.
- No tax charged on house sales of less than £500,000.
- Inheritance tax thresholds, pensions lifetime allowances and annual capital gains tax exemptions to be frozen at 2020-2021 levels until 2025-26.
- Firms will be able "deduct" investment costs from tax bills, reducing taxable profits by 130%.
- Incentives for firms to take on apprentices to rise to £3,000 and £126m for traineeships.
- Lower VAT rate for hospitality firms to be maintained at 5% rate until September.
- Interim 12.5% rate will then apply for the following six months.
- Business rates holiday for firms in England to continue until June with 75% discount after that.
- £5bn in Restart grants for shops and other businesses in England forced to close.
- £6,000 per premises for non-essential outlets due to re-open in April and £18,000 for gyms, personal care providers and other hospitality and leisure businesses
- New visa scheme to help start-ups and rapidly growing tech firms source talent from overseas.
- Contactless payment limit will rise to £100 later this year.
- All alcohol duties to be frozen for second year running.
- No extra tax on spirits, wine, cider or beer.
- Fuel duty to be frozen for eleventh consecutive year.
- Tobacco duties to rise by inflation plus 2%.
- £1bn fund to promote regeneration in a further 45 English towns, including Preston, Middlesbrough, Swindon, Bournemouth, Newark, West Bromwich and Ipswich.
- First eight sites announced for freeports in England: East Midlands Airport, Felixstowe and Harwich, Humber, Liverpool City Region, Plymouth, Solent, Thames and Teesside. ■

What is the 2021/22 PAYE tax code?

The basic PAYE tax code is set at **1257L** for employees. This gives an employee a personal tax allowance of £12,570 for the year. This is a £70 increase on 2020/21 and worth £14 to a basic rate taxpayer.

- £12,570 is also called the 'emergency code'.
- Employees who earn more than £125,140 receive no personal allowance and should be on an 0T tax code (see later on).
- Employees who earn between £100,000 and £125,140 have their personal allowance tapered away. It is reduced by £1 for every £2 in excess of £100,000.
- Employees who have claimed the Marriage allowance, by virtue of a low-earning spouse, have a PAYE code with a suffix of M. Those who surrender the allowance have a suffix of N.

Employees who are Scottish Taxpayers have the prefix S. The higher rate threshold in Scotland is £43,663 in 2021/22 (£43,430 in 2020/21), compared to £50,270 (£50,000 in 2020/21) in the rest of the UK.

Employees who are Welsh Taxpayers have the prefix C. The higher rate threshold in Wales is the same at that for the rest of the UK at £50,000.

What tax code do I use for 2021/22?

If the employee is a starter or casual worker complete the Starter Checklist. Otherwise use 1257L for employees unless:

- Notification of a different code is advised by HMRC.
- The employee's code was not the basic code last year, in which case expect the code to be the same as last year unless otherwise notified by HMRC.

It is advisable to double-check with HMRC and if in doubt check online or phone the tax office. Do not carry forward any week one or month one adjustments.

What is the 'emergency' tax code for 2020/21?

- 1257L is the default code. Codes may then be suffixed with W1 (weekly pay), M1 (monthly pay) or X.

What is code ending in OT?

This means that the employee has not been given any allowances against tax. This is most likely because the current employer has probably not been given the employee's starting information, they are a casual worker or earn over £125,140.

How do I check my tax code?

It is said that less than 80% of employees bother to check their PAYE code. It is foolish not to check it, as it will not bite you. ■

Advisory fuel rates from 1 March 2021

HMRC have published new advisory fuel rates for company car drivers which apply from 1 March 2021. Most remain unchanged from the rates applicable for the previous three months.

Rates for fully electric cars have remained at 4p per mile since their introduction in September 2018.

Hydrid cars are treated as either petrol or diesel cars for these purposes. The old rates may be used until 31 March 2021.

The new March rates per mile are show in the table. ■

Engine size	Petrol	Diesel	LPG	Electric*
1,400cc or less	10p		7p	4p
1,600cc or less		9p		4p
1,401cc - 2,000cc	12p		8p	4p
1,601cc - 2,000cc		11p		4p
Over 2,000cc	18p	12p	12p	4p

* Fully electric cars only

Reverse Charge VAT

The important place to go to, and always to return to whenever there is a problem, is the flow chart for reverse charge.(Appendix at end of newsline).

Think about the contract from which the invoice /application/payment arises.

Is the contract for work that is covered by the CIS scheme? Remember that if some of the work is covered by CIS, it taints the whole contract, and everything paid under the contract falls within CIS.

Is the work standard or reduced rated ? If so, it potentially could be reverse charged, and you must find out more. If the work is zero-rated the invoice remains zero-rated.

If the work is covered by CIS and standard or reduced rated, you must find out whether your customer is VAT and CIS registered. If they are not, VAT is chargeable on a normal invoice.

If the customer is VAT and CIS registered, you should then ask them if they should supply you with an end user statement. If you receive no reply or are told that the customer is not an end user, you will reverse charge any invoice or application.

If the customer supplies a written end user statement you would charge VAT normally and keep their statement which MUST be a letter or email.

In general: The aim of this legislation is to get main contractors who interface with the customer who will be the user of a building to bill VAT and pay all of it to HMRC. It aims to stops them paying the subcontract chain any VAT and it aims to stop the sub-contract chain paying VAT down to sub sub-contractors.

So, if you are working for a main contractor, expect to reverse charge, and when paying sub-contractors, expect them to reverse charge you.

This general statement may not be appropriate in all cases but if you understand the general picture it will be easier to see when you could be making a mistake. ■

Off-payroll working if your business is medium or large: You must do CEST tests now and act on what you find

Off-payroll working is the term used by HM Revenue & Customs (HMRC) to describe the situation where an individual worker provides their own personal services via a Personal Service Company (PSC) to an End-Client.

The off-payroll working tax rules are essentially anti-avoidance provisions. They aim to ensure that where a worker performs the same kind of work as an employee of the End-Client, any fees paid in respect of the worker's services via the worker's PSC, or if paid directly to the worker are subject to PAYE.

Application of the rules depends on:

- The identity of End-Client in a labour supply chain, the size of the End-Client and the worker's deemed employment status.
- Employment status is determined by the End-Client or in some cases by the PSC, the deemed employer is then responsible for deducting PAYE. This could be the End-Client, an employment agency or the PSC itself.

There are two versions of the rules:

- If the End-Client is a small business, IR35 applies: the PSC must assess employment status and tax appropriately.
- If the End-Client is in the public sector or (from 5 April 2021) is a large or medium sized business, the End-Client must assess employment status.

The off-payroll working rules do not apply if the worker's employment status determination indicates that the worker would not be an employee of their End-Client were they to work directly for that End-Client.

When this legislation was first introduced in the public sector what we saw happen was the operation of a blanket approach and the reclassification of all workers as employees to avoid the risk of any potential PAYE non-compliance.

Continues on next page

Off-payroll working if your business is medium or large you must do CEST tests now and act on what you find CONTD

In summary:

- When off-payroll working applies, the top party in the labour supply chain has the obligation to assess employment status and they or a party further along the payment chain deducts PAYE and National Insurance from the fee paid to the worker's company.
- Different parties in the chain must apply the rules, depending on the type of end-client and who is the fee payer.

The off-payrolling labour supply chain generally looks something like this:

Worker > PSC > Agency > End-Client

- The End-Client assesses its own size and notifies the worker that it is a large or medium-sized client.
- The End-Client assesses the worker's employment status and informs the agency/fee payer and worker.
- The Fee Payer, who is normally the end-client or an agency, deducts PAYE and NICs from the fee paid to the worker's PSC.

Who is responsible for notifying who?
It is always the duty of the End-Client to assess employment status and pass on that assessment to the Fee Payer and the worker unless the end-client is a small operation and therefore out of the grasp of the legislation. In that case, the worker's intermediary checks their employment status and applies IR35.

WARNING: If the End-Client or any other party in the chain fails to pass on the results of the employment status test it will become the deemed employer's fault.

How to check your employment status?

- The End-Client and intermediary should start by using HMRC's Check Employment Status Tool 'CEST'
- The CEST results of the test are accepted by HMRC provided that the questions are answered as accurately as possible.
- A worker challenging the CEST result will need also to work through the CEST tool if they are challenging an end-client's status determination statement.

HMRC's briefing confirms:

- No penalties for inaccuracies in the first 12 months of the operation of the extended off-payroll working rules unless there is evidence of deliberate non-compliance.
- It will not use information received under the regime to open new compliance enquiries into Personal Service Company (PSC) returns for tax years before 2021/22, unless there is reason to suspect fraud or criminal behaviour.
- It will continue to challenge tax avoidance schemes that claim to avoid the off-payroll working rules or otherwise to reduce the tax payable.
- A specialist team will carry out all their off-payroll working compliance activity. ■

COVID-19 VAT payment deferral measures for VAT registered businesses

- VAT registered businesses were not required to make VAT payments that were due from 20 March 2020 to 30 June 2020. This relief was automatic: it did not need to be claimed.
- The VAT liability and payment were not cancelled, they were deferred. Any VAT liability needed to be settled by 31 March 2021 unless a payment scheme is used.

If a business cannot afford to pay by 31 March this year, they can now join the online VAT deferral new payment scheme to spread the payment.

The new scheme lets customers pay their deferred VAT in equal monthly instalments interest free. They can spread payment across a number of months, depending on when they join – the earlier they join, the more months they have to spread the payments across:

- 11 instalments if they join by 19 March.
- 10 instalments if they join by 21 April.
- 9 instalments if they join by 19 May.
- 8 instalments if they join by 21 June.

You can join the scheme quickly and simply online, without the need to call HMRC. Go to GOV.UK and search 'VAT deferred'.

The online service will close on **21 June 2021**, if you want to join the scheme online, you **must** do so before this date.
If you are on the VAT Annual Accounting Scheme or the VAT Payment on Account Scheme, you will be able to join the new payment scheme later in March.

If you have a Time to Pay arrangement already in place for deferred VAT, you cannot use the online scheme. If you want to amend your Time to Pay arrangement, you should contact HMRC to do this.

Businesses must remember to reinstate their direct debits in time for their first payment. ■

COVID-19: Loan funding

During COVID-19 there have been a number of different types of loan funding.
All loan funding is repayable.

The following loan funds were available during the ongoing Coronavirus pandemic. They were open until 31 March 2021

- Microbusiness 'bounce back' loans.
- Coronavirus Business Interruption Loan Scheme.
- Coronavirus Large Business Interruption Loan Scheme.

Other loans include:

- COVID-19 Corporate Financing Facility: ***closed on 9 October 2020.***
- Future Fund convertible loan scheme: ***closed on 31 January 2021.***

Microbusiness 'bounce back' loans
The loan is available to UK based small and medium-sized businesses to borrow between £2,000 and up to 25% of their turnover. The maximum loan available is £50,000.

The government guarantees 100% of the loan and there will not be any fees or interest to pay for the first 12 months. After 12 months the interest rate will be 2.5% a year.

The scheme is open to applications until 31 March 2021.

The business must have been:

- Established before 1 March 2020.
- Adversely impacted by the Coronavirus.
- Not an 'undertaking in difficulty' on 31 December 2019.
- Not already claiming under the Coronavirus Business Interruption Loan Scheme or Corporate Financing Facility.

What's new?

- In February 2021, the government announced extensions to the repayment conditions on bounce back loans.
- As part of the "Pay As You Grow" scheme (originally announced by the Chancellor in September 2020) repayment flexibilities now include the option to delay all repayments for a further six months.
- Businesses can choose to make no payments on their loans until 18 months after they originally took them out.
- The option to pause repayments will now be available to all from their first repayment, rather than after six repayments have been made.
- Borrowers may extend the length of their loans from six to ten years (reducing monthly repayments by almost half).
- Make interest-only payments for six months, with the option to use this up to three times throughout the loan.
- Lenders will proactively and directly inform their customers of "Pay as You Grow" and borrowers should only expect correspondence three months before their first repayments are due.

Coronavirus Business Interruption Loan Scheme

- Applies to UK based medium and large-sized businesses with a turnover of over £45 million.
- The government guarantees 80% of the finance to the lender.
- The scheme is open to applications until 31 March 2021.
- The same criteria and rules apply as for the SME CBILS. Banks, building societies, insurers and reinsurers (but not insurance brokers) and public-sector organisations, including state-funded primary and secondary schools are all excluded from the scheme.

Larger business: COVID-19 Corporate Financing Facility (CCFF)

- A lending facility for larger businesses to raise working capital via the purchase of short-term debt.
- The minimum amount of £1 million.
- This will support companies who can show they were in 'sound financial health' prior to the COVID-19 shock, to enable them to continue financing their short-term liabilities.
    - o 'Sound financial health' means a short-term credit rating of A3/P3/F3/R3 or above, or a long-term rating above BBB-/Baa3/BBB- by at least one of the major credit rating agencies.
    - o If firms do not have an existing credit rating from one of the major credit rating agencies, they or their bank should get in touch with one of them to seek one. This should be in a form that can be shared with the Bank of England and HM Treasury and note that the reason for seeking the rating is so that the firm may use the CCFF.
- The Bank will also support corporate finance markets overall and ease the supply of credit to all firms.
- Businesses should start with their own banks. If they are not able to issue commercial paper there is a list of other banks who do with contact details on the UK Finance website.

Future Fund convertible loan scheme

- The 'Future Fund' scheme is operated by the British Business Bank and opened on 20 May 2020.
- It offers unsecured bridge government funding of up to 50% of the total bridge funding received by a company, where the remaining amount is provided by private third-party investors.
- To be open to companies with a UK economic presence who have raised at least £250,000 in the last five years.
- The bridge funding will automatically be converted into equity on the company's next qualifying funding round.
- The minimum lending from the Government under the scheme will be £125,000, up to a maximum of £5,000,000.
- The minimum interest rate for the government will be 8% and the loan will mature after a maximum of 36 months.
- The application deadline for loans from the Future Fund was extended to 31 January 2021. ■

If you have a query on any item in newsline contact Tel: 020 8874 4335 or liz@thetaxbridge.com

Phishing email: "Your self-employed grant for March 2021 has been approved"

Beware, if you are self-employed then you should be careful not to click on any phishing emails. A recent phishing email currently circulating purports to come from HMRC, it is shown on the right.

HMRC does not send out this kind of email. This does not originate from HMRC.

Do not open any attachments included in the email. ■

"Hello,

If you're self-employed or a member of a partnership and have been impacted by Coronavirus (COVID-19) you are eligible to claim a grant.

Government is giving a grant between 2,500 pounds and 7,500 pounds if you are a taxpayer.

You must download the form attached to this email and fill out the required information to complete approval for your grant claim.

UK GOV"

Uber drivers are not self-employed

The Supreme Court has confirmed that Uber's drivers are workers and not self-employed. The taxi-tech business failed to persuade judges that it acted merely as an agent when it supplied enabling technology to the drivers via its App as it exerted such complete control over the way in which the driver worked.

The drivers claimed that they were 'workers' for the purposes of the Employment Rights Act 1996, the National Minimum Wage Act 1998 and the Working Time Regulations 1998. As such, they were entitled to the National Minimum Wage, paid leave and other legal protections.

Uber argued that it was only acting as their agent in providing the technology for drivers to conduct their trade.

With no written contract between the drivers and Uber London, the nature of their legal relationship had to be inferred from the parties' conduct. The Supreme Court noted that there was no factual basis for asserting that Uber London acted as an agent for drivers. Instead, the Court decided that the correct inference was that Uber London contracts with passengers and engages drivers to carry out bookings for it.

As established in its previous decision in ***Autoclenz Ltd v Belcher [2011] UKSC 41*** it is wrong in principle to treat the written agreements as a starting point in deciding whether an individual is a 'worker'. The correct approach is to consider the purpose of the relevant employment legislation. That purpose is to give protection to vulnerable individuals who have little or no say over their pay and working conditions because they are in a subordinate and dependent position in relation to a person or organisation which exercises control over their work. The legislation also precludes employers, frequently in a stronger bargaining position, from contracting out of these protections.

- Drivers are in a position of subordination and dependency in relation to Uber such that they have little or no ability to improve their economic position through professional or entrepreneurial skill.
- In practice, the only way in which they can increase their earnings is by working longer hours while constantly meeting Uber's measures of performance.

The Supreme Court decision is an expensive ruling for Uber. It will transform its low-cost business model in the UK. It now faces claims for back-pay and holiday pay from its workers.

Whilst Uber drivers are not construction workers it is worth reflecting on what the court said about the case. ■

Retail, hospitality and leisure relief

The Chancellor has confirmed the Government will extend the 100% business rates holiday for eligible properties in the retail, hospitality and leisure sectors for the first three months of the 2021/22 rate year.

From 1st July businesses that were required by law to be closed on 5th January 2021 will benefit from a further 66% relief for the remaining nine months of the year, subject to a cap of £2 million per business. Qualifying businesses that were not forced to close will be subject to a cap of £105,000.

Crucially, the caps are imposed at a business rather than property level, which will severely limit the upside for even modestly sized chains. ■

Uniform Business Rate (UBR) 2021/22: The UBR in the UK for 2021/22 will be as shown in the table below

England		Wales	Scotland		
RV below £51,000	£51,000 and above		RV up to £51,000	£51,001 - £95,000	Above £95,000
49.9p	51.2p	53.5p	49p	50.3p	51.6p

Sending out the correct invoice? Normal or reverse charge? – Appendix 1

Are you invoicing for the supply of labour only as a gang master or employment business or are you invoicing for materials only?

YES? → NORMAL VAT RULES APPLY CHARGE VAT

NO ↓

Is any part of the supplies you are making to the customer within the scope of CIS?

NO → NORMAL VAT RULES APPLY CHARGE VAT

YES ↓

Is the supply standard rated or reduced rated?

NO → NORMAL VAT RULES APPLY BUT THE SUPPLY IS ZERO RATED SO NO VAT CHARGED

YES ↓

Is your customer VAT registered?

NO → NORMAL VAT RULES APPLY CHARGE VAT

YES ↓

Is your customer registered for CIS?

NO → NORMAL VAT RULES APPLY CHARGE VAT

YES ↓

Has your customer provided confirmation that it is an end user?

YES → NORMAL VAT RULES APPLY CHARGE VAT

No ↓

REVERSE CHARGE THE SUPPLY

Checking an incoming invoice – Appendix 2

This chart is to help businesses receiving an invoice or an application for payment to check whether it is correct in charging VAT or reverse charging.

Is the supply for the supply of labour by a gang master or agency, or is it from a building materials supplier?

YES? → INVOICE SHOULD CHARGE VAT

NO ↓

Is your own firm registered for CIS **AND** VAT?

NO → INVOICE SHOULD CHARGE VAT

YES ↓

Is the supply received within the scope of CIS?

NO → INVOICE SHOULD CHARGE VAT

YES ↓

Is the supply standard rated or reduced rated?

NO → INVOICE SHOULD CHARGE ZERO RATED VAT or BE FOR AN EXEMPT SUPPLY

YES ↓

Have I told my supplier that I am an end user? E.G. is the building to be sold or rented as an asset or used by this firm as offices?

YES → INVOICE SHOULD CHARGE VAT

No ↓

REVERSE CHARGE INVOICE SHOULD HAVE BEEN RECEIVED