

A nighttime city skyline featuring several prominent skyscrapers, including the Chrysler Building on the left. The foreground is dominated by a multi-lane highway with vibrant, curved light trails in shades of cyan and blue, suggesting long-exposure photography of traffic. The sky is a deep twilight blue with some clouds.

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PIMBS BRIEFING

AUTUMN 2024



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From the editors

Welcome to the Autumn 2024 edition of our briefing for Professional Institutes and Membership Bodies (PIMBs).

We are delighted to share with you the Autumn 2024 edition of our Professional Institutes and Membership Bodies briefing. To begin, Elena Ramkalawon, Partner and Head of Outsourcing, and Dominic Noakes, Director, share their view on the strategic advantage of outsourcing financial leadership roles. Membership bodies are often faced with challenges with resourcing and securing expertise. They share some of the benefits of outsourcing and how it can support your organisation.

Co-editor, Stephen Patey, Senior Manager, goes into detail on VAT on training courses and other electronically supplied services for membership bodies. There can often be uncertainties around whether or not VAT should be applicable, and the key question comes down to, is there human intervention for the training? Stephen goes into details on why this question matters, identifying where your members are located, and how you could potentially convert an electronic supplied service into a supply of education.

On 10 September 2024, the Financial Reporting Council (FRC) published a new edition of FRS102 which is effective for accounting periods beginning on or after 1 January 2026. Tom Brain, Director, shares what this new standard involves, and more importantly, what it will mean for membership bodies. From looking at revenue from contracts with customers, to the impact and timing of the Charity SORP, this article highlights areas where organisations will need to start gathering new information for reporting purposes.

Now more than ever, professional institutes rely significantly on technology to manage vast amounts of sensitive data, facilitate operations, and engage with their members. Head of Risk, Assurances and Advisory Services, Rakesh Vaitha, shares some useful insights into IT controls to include Protecting confidential member information, supporting operational efficiency, and managing and maintaining reputation and member trust.

Co-editor, Jamie Whale, Senior Manager shares some pitfalls organisations should look out for regarding Corporation Tax, providing a reminder of the complexities that organisations face when reviewing their trading activities and identifying taxable activity. He goes on to share what organisations should keep at the forefront of their mind, followed by sharing some of the latest developments we are seeing across the sector.

Finally, Nick Bustin, Employment Tax Director, reflects on the Supreme Court ruling on Professional Game Match Officials. In his article, Nick shares his views and key considerations which may have a bearing on how many professional bodies engage with any off-payroll workers, emphasising the importance that all policies, procedures, contracts and other arrangement should be reviewed in full.

We hope you enjoy this edition and find these articles of interest. Do feel free to let the articles' authors, ourselves, or your regular contact know if you have any questions concerning the matters discussed. We would welcome any feedback on this Professional Institutes and Membership Bodies Briefing and, in particular, any topics you would like us to consider for future editions.



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The strategic advantage of outsourcing financial leadership roles

In today's fast-evolving business landscape, membership organisations and other NFP entities often grapple with the complexities of financial management and compliance. They are largely under-served when compared to their more corporate or larger counterparts and struggle to access consistently meaningful data needed to make important business decisions.

A senior financial professional, such as a CFO or Financial Director (FD), plays a pivotal role in solving these challenges; by taking a business-partnering and strategic, forward-looking role, they can help with 'big picture' financial planning and advice. However, the challenge in membership bodies often lies in the resources and expertise required to fulfil these roles effectively in-house.

Challenges in financial management

Some of the key challenges faced in this sector regarding financial management include:

- **Expertise and experience gap:** Many find it challenging to attract and retain individuals with the right mix of expertise and experience needed. The competitive market for top talent intensifies this issue.
- **Resource constraints:** The financial burden of hiring a full-time, senior financial executive can be expensive. It is more than just the salary – there are also additional costs related to benefits, training, and technology.
- **Compliance and risk management:** Staying abreast of the latest financial regulations, tax laws, and compliance requirements is crucial. SMEs often struggle with this aspect due to limited resources and expertise.
- **Strategic financial planning:** Developing and implementing effective financial strategies requires a level of insight, experience and sector knowledge that may be beyond the scope of the existing team.
- **Affordability:** Many organisations do not require a full time CFO or FD and would be better off outsourcing the role on a fractional basis.

Outsourcing the role

Given some of the challenges mentioned, outsourcing the CFO or FD role can support your organisation's financial goals and growth, and this is where an outsourced fractional CFO can be the right solution for you and your business.

- **Access to expertise:** An outsourced fractional CFO role provides immediate access to experienced financial professionals who have a broad understanding of finance, taxation, and regulatory compliance. This level of expertise supports strategic decision-making and can significantly enhance financial performance.
- **Cost efficiency:** By outsourcing, you can transform fixed salary costs into variable costs that scale with their needs. This approach not only saves on the direct costs of employing a senior executive but also on related overheads.
- **Focus on core business functions:** Delegating financial responsibilities allows the CEO, senior management, and their teams to concentrate on core activities. This can lead to better operational efficiency and faster growth.
- **Risk mitigation:** Outsourced financial professionals are adept at navigating the complexities of financial regulations, ensuring that the organisation remains compliant with UK tax laws and accounting standards. This reduces the risk of costly errors or non-compliance issues.
- **Strategic insight and support:** Outsourcing the role also comes with the added benefit of objectivity – whilst the individual can get on with the job at hand, assisting with budgeting, financial forecasting, and identifying opportunities for cost savings or investment, the underlying benefit is having someone qualified to see the 'bigger picture' and provide an unbiased perspective on the strategy, goals, financials and more.
- **Flexibility and scalability:** As the organisation grows, its financial needs will evolve. An outsourced role offers the business the flexibility to scale up or down as required, providing the right level of support at each stage of growth.

How can we help?

The decision to outsource the CFO or FD role can be a strategic move that drives efficiency, reduces risk, and supports growth. By partnering with a specialised accountancy firm, such as haysmacintyre, it is possible to gain access to a level of expertise and experience that might otherwise be inaccessible. This approach not only helps in overcoming the challenges of financial management, but also considers long-term, sustainable success.

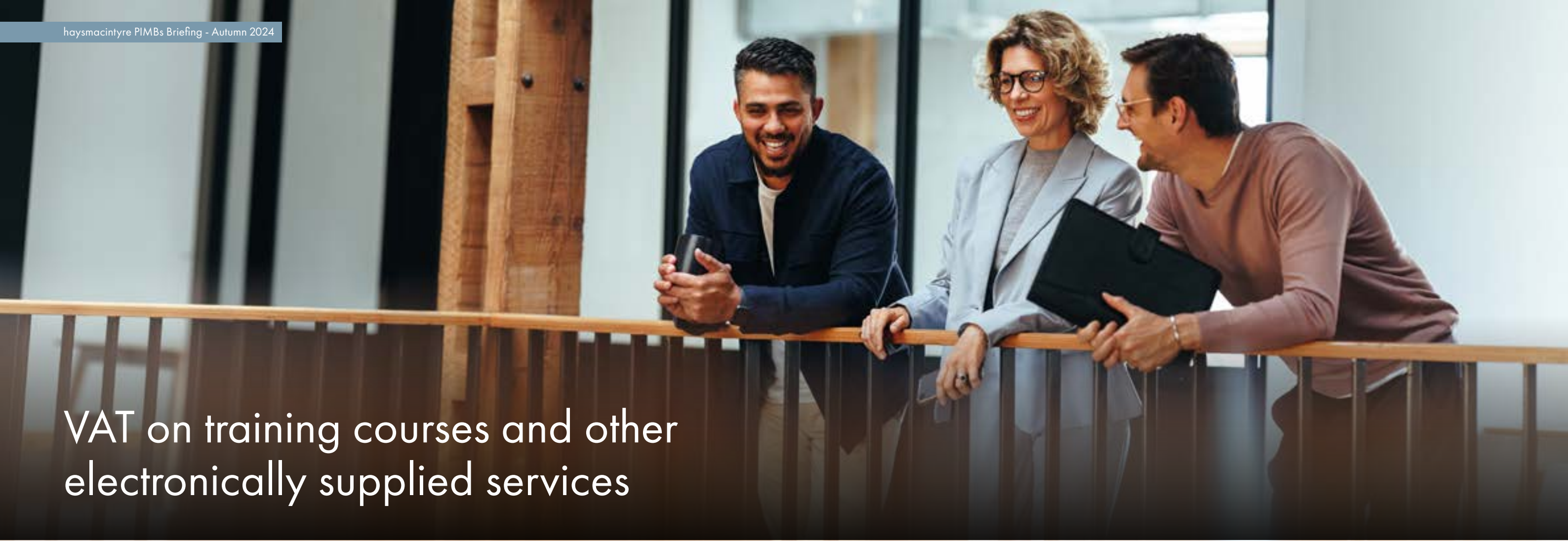
Our Outsourcing team is expertly positioned to support your business' growth, working with you collaboratively to meet your strategic goals whilst maintaining business continuity. For more information on how we can help, contact Elena Ramkalawon, Partner and Head of Outsourcing, or Dominic Noakes, Director.

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VAT on training courses and other electronically supplied services

Many membership bodies provide online training courses to members. These members could be UK-based or they could be international. The question of whether VAT should or should not be charged on these training courses is not a simple one and, by providing such services, there could even be a creation of local VAT registration requirements in other EU countries!

The starting point when considering whether your training courses should be subject to VAT or not, is to question whether it is a supply of education or whether it is deemed to be an electronically supplied service. As well as the two having possibly different VAT liabilities, the place of supply – where they are deemed to be taxed – also differs.

To determine whether the courses would be a supply of education or an electronically supplied service, the key consideration is whether there is “human intervention” as part of the course. For example, this may include a lecturer delivering a live Q&A session or providing a live webinar as part of the course. If so, then this would be seen as being a supply of education, whereas if there was no “human intervention”, for example, if there were only pre-recorded learning sessions, then the course would not qualify as being a supply of education for VAT purposes and would be regarded as being an electronically supplied service.

So why does this matter?

Well, if this is a supply of education then the supply would be exempt from VAT if you are an “eligible body” for VAT purposes, or would be standard rated if you are not an “eligible body”. On the other hand, if this is deemed to be an electronically supplied service then this supply would be standard rated for VAT purposes.

In addition, the place of supply rules vary, with the place of supply of education being where you as the supplier belong, but the place of supply of electronically supplied services being where the customers belong when the supply is made to an individual.

So, in other words, if your courses do not involve any “human intervention” and are deemed to be electronically supplied services, then the supplies to individuals would be deemed to take place in the country where those individuals are based. This would mean no UK VAT would be chargeable on these supplies, however, this would lead to the requirement to register for VAT in every EU country where you have a customer accessing the course.

As you can imagine, this would lead to a significant administrative burden, not to mention a considerable additional compliance cost, especially if your members were spread across a number of different countries.

There is a simplification measure available – the Non-Union MOSS scheme – which involves registering for VAT in one EU country (usually Ireland) and then submitting a MOSS return each period which covers all sales made to individuals throughout the EU. This cuts down the cost and reduces the administrative burden, however, you will still need to identify where members are located and charge them the correct local VAT rate.

If you do have online courses that may fall into this category of not having any human intervention within them, you should therefore be reviewing your current processes to ensure that you identify the location of the members. Alongside this, of course, you will need to ensure that there are suitable processes in place to identify members who aren't individuals, but businesses for example, at which point you would not need to charge UK VAT and instead would leave the member to account for VAT themselves, under the reverse charge procedures.

Alternatively, you may wish to seek advice as to whether you could potentially convert an electronically supplied service into a supply of education by creating some human intervention where possible. If this was possible, then this would allow you to ignore the place of supply rules and simply treat the supplies as being subject to the general rules as detailed above.

If you would like any further support regarding the application of VAT on training courses, or other electronically supplied services, reach out to myself or the VAT team at vat@haysmacintyre.com.



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FRS102 update

On 10 September 2024, the Financial Reporting Council (FRC) published a new edition of FRS102 “The Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102)” which is effective for accounting periods beginning on or after 1 January 2026.

The new standard includes fundamental changes to UK accounting requirements bringing it into line with International Financial Reporting Standards (IFRS), in respect of accounting for revenue from contracts with customers and accounting for leases. In this article, we consider the implications of these changes for membership organisations’ financial statements and highlight areas where you will need to start gathering new information for reporting purposes.

Revenue from Contracts with Customers (FRS102.23)

It’s important to note that the new revenue model applies only to revenue from contracts with customers, so it does not apply to income derived from leases, investments or non-exchange transactions (such as grants and donations).

FRS102.23 adopts a five-step recognition model that is very close to that used in IFRS 15:

1. Identify the contract with the customer
2. Identify the performance obligations in the contract
3. Determine the transaction price
4. Allocate the transaction price to the performance obligations
5. Recognise revenue when each performance obligation is satisfied

This is a fundamentally different approach from the current standard and will require organisations to reappraise each of their revenue streams, to determine whether any changes to their existing accounting practices will be needed to reflect the new requirements. We would not expect there to be any significant changes to revenue recognition for most sources of revenue, but any changes that are required will potentially result in a prior period adjustment, and a restatement of comparative amounts as a result of the change of accounting policy.

One area where the adoption of IFRS 15 led to significant restatements of prior period amounts, and which will therefore require careful consideration for UK entities adopting the new edition of FRS 102, is in relation to admission fees.

Where new members pay a one-off admission fee, which confers the right to join the organisation but is separate from the annual membership fee, this would historically have been recognised as revenue in full when it was received. Under the new requirements, such fees should be recognised in revenue over the period of time for which the individual is a member. This is because the organisation has an ongoing performance obligation to allow the individual to continue as a member.

Management will need to develop an appropriate accounting policy to recognise such one-off fees over the relevant period which, for admission fees, would typically be the average or expected period of membership. When the fee is received, it should initially be deferred and then released to revenue in accordance with the policy that has been developed.

Example: One-off admission fee - £200; average period of membership - 20 years

Year 1	Revised FRS102 £	Existing FRS102 £
Admission fee received	200	200
Recognised in revenue and impact on reserves	10	200
Deferred income balance	190	-
Years 2-20	Revised FRS102 £	Existing FRS102 £
Recognised in revenue and impact on reserves	10	-
Deferred income balance (year 2)	180	-
Deferred income balance (year 3)	170	-
Etc		

Due to the long periods of time that are likely to be applicable for the recognition of admission fees, if a restatement is required it is likely to have a significant impact on reserves because amounts that had previously been recognised as income will be moved from reserves to liabilities on the balance sheet. This will need careful consideration at an early stage so that the impact can be determined and communicated where necessary to manage the expectations of users of the accounts.

Leases (FRS102.20)

The approach to leases in the revised FRS 102 mirrors very closely the lease accounting in IFRS (IFRS 16). The key change is that, with some exceptions, all leases will be accounted for as finance leases. Entities will recognise a liability for the present value of the future lease payments and a corresponding asset, which represents the right to use the leased asset(s) for the term of the lease.

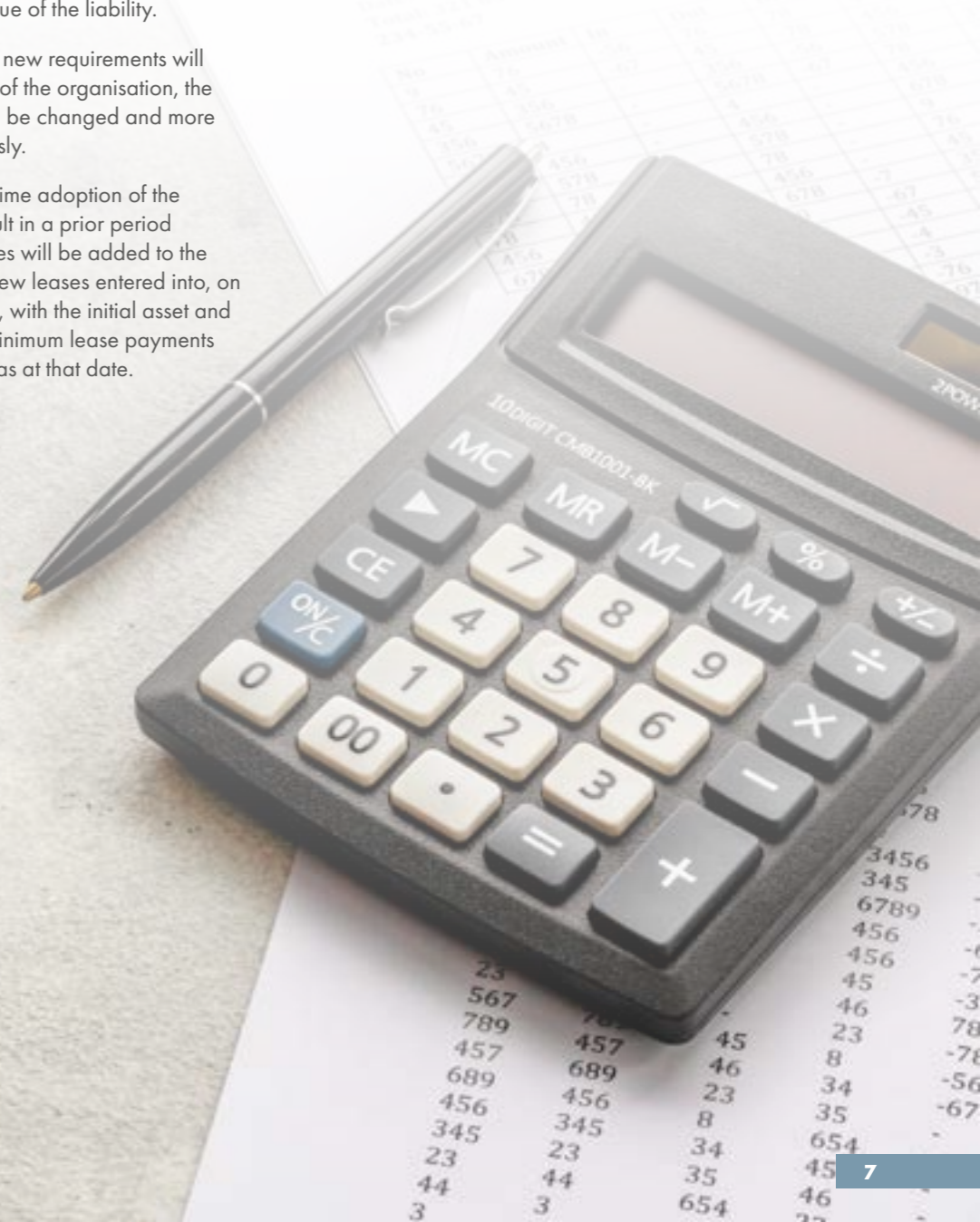
Instead of lease payments as an expense, leases will recognise depreciation of the right of use asset and finance costs which represent the unwinding of the discount applied to the future lease payments in calculating the value of the liability.

As a result, whilst the adoption of the new requirements will not have an impact on the net assets of the organisation, the composition of the balance sheet will be changed and more debt will be recognised than previously.

Unlike for the revenue changes, first time adoption of the revised lease accounting will not result in a prior period restatement. Instead, any extant leases will be added to the balance sheet as though they were new leases entered into, on the first day of the accounting period, with the initial asset and liability values being based on the minimum lease payments over the remaining term of the lease as at that date.

SORP impact and timing

For membership organisations which are also charities, the Charity SORP will be updated to reflect the requirements of the new standard. We understand that an exposure draft of the new SORP is expected to be issued for consultation early in 2025.



IT controls

IT general controls are vital for securing IT systems, ensuring business continuity, maintaining regulatory compliance, and supporting overall organisational governance. Organisations that prioritise IT controls can better manage risks and protect assets in an increasingly digital world.

In today's interconnected world, professional institutes rely significantly on technology to manage vast amounts of sensitive data, facilitate operations, and engage with their members. Effective IT controls are essential in ensuring the security, integrity, and efficiency of the organisations' systems, protecting both reputation and valuable information.

It is therefore important to implement best practices in the workplace to keep your IT systems safe and secure. There are useful resources from the Information Commissioner's Office, including '[11 practical ways to make your IT systems safe](#)', which can be helpful to benchmark your IT controls against.

Types of controls

When considering IT controls, organisations should focus on a range of technical, operational, and governance controls. Key categories and examples of IT controls that should be prioritised include:

1. Access controls
2. Change management controls
3. Data security controls
4. Network security controls
5. Physical security controls
6. Incident management
7. Business continuity
8. Compliance
9. Training and awareness
10. Third party management

These controls not only protect the organisation from threats but also ensure smooth operations, compliance with regulatory standards, and the ability to recover quickly from incidents. By regularly reviewing and updating IT controls, organisations can remain resilient in an ever-evolving technology landscape.

Protecting confidential member information

Professional institutes are often entrusted with sensitive personal and professional data, including financial details, certifications, and records. Robust IT controls under this section ensures that this information is safeguarded against data breaches, unauthorised access, and potential misuse. Controls like encryption, access restrictions, and regular audits are crucial to ensuring that only authorised personnel have access to confidential information, fostering trust among members.

Supporting operational efficiency

IT controls provide a structured framework for managing technology systems that support the day-to-day operations of a professional institute. This includes systems for member registration, event management, learning platforms, and financial processes. By implementing controls – such as regular system backups, change management protocols, and incident response plans – organisations can ensure smooth and uninterrupted operations, reducing the risk of system failures or downtime.

Managing and maintaining reputation and member trust

Professional institutes are built on the trust and reputation they maintain with their members and stakeholders. A security breach or system failure could significantly harm this reputation. Having robust IT controls in place demonstrates a commitment to protecting members' interests and maintaining the highest standards of professionalism.

Conclusion

For professional institutes, the importance of IT controls cannot be overstated.

They serve as the backbone of data security, operational efficiency, regulatory compliance, and risk management. By implementing comprehensive IT controls, your organisation can not only protect their own interests, but also ensure the long-term trust and satisfaction of their members. As technology continues to evolve, maintaining and strengthening IT controls will remain a key priority for professional institutes committed to excellence and integrity.

For senior leadership and board members to get assurances over adequacy and effectiveness of their IT controls, key ways of undertaking assessments to get a view on how IT risks within an organisation are being addressed include:

- Getting the cyber essentials plus accreditation
- Control self-assessments
- Internal audits on IT general controls
- Penetration testing

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Trading traps for membership bodies

PIMBs organisations are potentially subject to Corporation Tax (CT) on profits, whether or not they are a registered company. Such bodies often suffer little or no CT on surpluses where their activities do not amount to trading activities, or trading is only with their own members (referred to as “mutually trading”). In this article, we provide a reminder of the complexities that PIMBs organisations face when reviewing their trading activities and identifying taxable activity.

With the recent increase in CT rates, any non-exempt profits will now result in a higher tax cost and, therefore, it is more important than ever to understand the reliefs from which your organisation can benefit.

The question of whether someone is trading involves a series of case law tests around the so-called “badges of trade”. This area requires careful consideration, but an operation conducted commercially and charging a market price for goods or services is likely to be trading in nature.

The concept of mutual trading is another complex area with requirements again, derived from case law rather than legislation. These include the need for complete identity between those contributing to and benefiting from the surpluses of the organisation, and the members being entitled to a share in any surplus on a winding up. Mutual trading treatment, as the name suggests, only applies to trading activities and their related surpluses/deficits. As such, income from other activities including rental income, interest, and capital gains, are not covered by the exemption.

Although the mutual trading principle exempts profits arising from members, a membership organisation will normally remain subject to tax on any profits arising from trading with non-members. This may mean that a surplus from one trading activity is partly taxable and partly exempt, depending on who the customers are – only the non-member element is likely to be taxable. Any costs associated with the non-member element of trading, together with a share of overheads, will need to be allocated on a “just and reasonable” basis against the non-member income to determine the taxable profits.

An example of this type of organisation would be a members’ club. Ticket income for a particular event received from members is generally not taxable on the basis that it does not constitute trading income or as a result of it being exempt mutual trading income, depending on the level of charge and the services provided. The same club selling tickets to a non-member is, however, likely to be conducting a taxable trading activity.

What should organisations keep in mind?

Any new income streams generated to support the organisation’s activities are likely to be carried out on a commercial basis with a view to maximising profits. If the activity is carried out with third party customers, at least some of the surplus is likely to be taxable.

Examples of potentially taxable income streams include:

- Providing training services, where members and non-members can attend. However, the whole activity may be exempt from CT where it is not carried out commercially.
- Producing a magazine – both magazine sales and advertising.
- Letting rooms and facilities – or any other third-party use of the organisation’s buildings, such as granting permission for filming and photography.

It is worth putting in place mechanisms to ensure member and non-member transactions are recorded separately from the beginning of the activity, to avoid any possibility of under-recording and therefore under-declaring taxable income.

It is also worth considering which expenditure can be directly attributed to generating the taxable surplus, and which expenses should be apportioned. Documenting an apportionment method for mixed expenditure during planning the activity, or in its earliest stage, can allow you to forecast and budget for the likely CT exposure.

Latest developments

We are seeing a greater level of HMRC interest in membership organisations, particularly where the mutual trading principle is relied upon for CT purposes. Recent HMRC interest we have seen includes enquiries relating to:

- Whether the mutual trading requirements are met by the organisation, including checking the constitution is compatible with the requirement for members to control the surplus and be entitled to any surplus upon a winding up.
- The income streams and categories of membership the mutual trading principle applies to.
- The basis on which expenditure is allocated against taxable trading income and whether this is “just and reasonable”.

It is therefore important that membership organisations are satisfied that the existing basis of taxation is robust, so that any challenge from HMRC can be defended. A reasonable self-assessment policy, backed by professional advice, can provide comfort and act as a defence in the event of a future challenge from HMRC.

Companies recording profits of over £250,000 now suffer CT of 25% on profits. It is important to maximise the reliefs from which you can benefit. The potential unexpected tax burden, as a result of getting it wrong, is higher than ever.

It should also be noted that the above £250,000 limit is divided by the number of “associated companies”, since changes were introduced in April 2023. Unlike previous rules for counting 51% group companies, associated companies encompass a wider range of companies, including affiliated charities and other companies without share capital.

If you would like advice or assistance regarding your organisation’s taxation treatment, please contact your usual haysmacintyre contact.

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The Supreme Court ruling on Professional Game Match Officials

The question of employment status is often a thorny issue. However, the much-awaited Supreme Court decision in *Professional Game Match Officials (PGMOL) v HMRC*, has provided some clarity on the mutuality of obligations ('MOO'). This article considers the key points raised which may have a bearing on how many professional bodies engage with any off-payroll workers.

The Supreme Court judgement (published on 16 September 2024) confirmed that the minimum requirements of mutuality of obligations ('MOO') which relate to the provision of a personal service are comparatively low. This is especially the case where the engager – being the employer – pays for those services and maintains control over the employee. In their ruling, the Supreme Court found that the match assignment (deemed to be an individual contract for that match) created a contract of service between the National Group of referees and PGMOL.

The Supreme Court directed the FTT to revisit the facts and decide whether the individual contracts are employment contracts. There is a sense of frustration that referring the case back to the FTT to revisit the facts of the engagement, whilst technically correct, will only create unnecessary delays in concluding the dispute.

Unlike other recent IR35 cases, the appeal was only asked to consider the first two strands of the *Ready Mix Concrete (South East) ('RMC') v Ministry of Pensions and National Insurance [1968] 2QB497*, not the third limb ('third RMC stage'). When the case is heard again by the FTT, we expect it to review all three stages of RMC tests, which are considered in more detail below.

RMC tests

The tests established that, in order for there to be a contract of service (employment), certain conditions must be met:

- The worker has to be subject to a right of control. If there is no right of control of any kind, then you will not have a contract of service. However, there is a caveat that, although a right of control is a key factor in determining employment status, it is not necessarily a sole determining factor;
- Personal service must be given. However, the court did make the key point that a limited right of delegation was not inconsistent with a contract of service; and
- The other factors present are consistent with a contract of service. Factors such as ownership of significant assets, financial risk, and the opportunity to profit which are not consistent with a contract of service.

These three criteria are generally referred to as mutuality of obligation, control and third RMC stage.

The Judgment

The Supreme Court unanimously dismissed PGMOL's appeal, deciding that the minimum requirements of MOO and control necessary for a contract of employment between the National Group referees and PGMOL were satisfied in relation to the individual contracts. The Supreme Court remitted the case back to the FTT for it to decide whether, in the light of all relevant facts, the individual contracts were contracts of employment.

Reasons for the Judgment were:

1) MOO

The Judge drew distinction between overarching and individual contracts. The overarching contracts govern continuous employment – whereas individual contracts, as in this case, govern single engagements. This means that in individual contracts, it is not a requirement to consider MOO before the engagement commences. We must consider instead the parties' obligations in the period from the referees' arrival at the ground on match day to the submission of their match report on the following Monday and this would satisfy the requirement for sufficient mutuality of obligations.

Additionally, the Judges opined that a referee and PGMOL were under mutual contractual obligations from the time that the referee accepted the offer of a match. The Judges further added that *"it did not matter that either party had a right to cancel the engagement without penalty; whilst the contract remained in place, the parties were under mutual obligations to each other. Consequently, the individual engagements of referees to officiate at matches satisfied the test of mutuality of obligation"*.

2) Control

The Judges contended that it is not necessary that the employer should have a contractual right to intervene in every aspect of the performance by an employee of his or her duties for there to be a sufficient degree of control. This includes the ability or legal right to intervene during the performance of the employee's duties.

What is important is that there should be a sufficient framework of control, as regards each contract taken separately. The Judges added that it is not confined to the right to give direct instructions to the individuals concerned.

Whilst the case relates to football match officials, it will be interesting to see whether HMRC will consider applying the findings of this decision. Will HMRC look at individuals whose work patterns include a series of short-term engagements for example?

We are aware of HMRC's 'Off-payroll worker' campaign within the Charity and Not for Profit sectors. Many of the points considered in the PGMOL case will no doubt be looked at by HMRC when they look at the contractual arrangements which are present within the worker supply chain. It is important that all policies, procedures, contracts and other arrangements are reviewed in full.



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Upcoming events programme

We have one of the largest charity and not for profit teams in the country: we act for over 800 clients, accounting for approximately 30% of our annual turnover. Our team of specialists host topical seminar updates and speak at other organisations' events presenting the latest developments within the not for profit sector.

PARN Benchmarking Report Launch

28 November 2024

16:30 – 19:00

haysmacintyre, 10 Queen St Place, EC4R1AG

PARN Finance Special Interest Group

11 February 2025

15:30 – 17:30

Online

Trustee Training: introduction to finance

18 February 2025

13:30 – 15:30

Online

Trustee Training: roles and responsibilities

06 March 2025

09:30 – 13:30

Online

Trustee Training: charity law update

23 March 2025

13:30 – 15:30

Online

PARN Finance Special Interest Group

15 May 2025

16:30 - 19:00

haysmacintyre, 10 Queen St Place, EC4R1AG

To book your place at any of our events,
please visit haysmacintyre.com/events

PIMBs team

If you need guidance on any audit and accounting, financial reporting, statutory obligations, funding, employment tax or direct tax matter you can contact any member of our PIMBs team using the details below.

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