

haysmacintyre

SCHOOLS BRIEFING

AUTUMN 2022





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From the editor

Welcome to the Autumn edition of our Schools Briefing 2022. In this edition, we will be looking at the various tax implications of recent Government announcements, the impact on schools from the Supreme Court judgment in the case of Harpur Trust v Brazel, and revisions to auditing regulations.

To begin with, Nick Bustin, Director, provides an employment tax update considering the changes to be implemented across IR35, National Insurance and pension salary exchange.

Following the recent Autumn Statement from the Chancellor, Jeremy Hunt, we have addressed some of the key highlights which may impact independent schools.

We are grateful to Simon Bevan, partner at law firm VWV, who examines the practical impact on schools from the Supreme Court judgement in the case of Harpur Trust v Brazel.

Continuing through these current economically challenging times, schools are looking to maximise income wherever possible. Louise Veragoo, NFP Tax Director, provides a summary of the main circumstances in which Gift Aid can be available for schools, recent changes to note and provides some pointers on how to maximise the amount reclaimed from HM Revenue & Customs (HMRC).

Rakesh Vaitha, Senior Manager, looks at IT general controls and the implications of ISA 315 (revised) which will impact on the 2023 financial statement audits for independent schools.

Finally, Ramzan Khan, Senior Manager, looks at the VAT implications of Electrical Vehicle (EV) Charging as more employers, including independent schools, are installing EV charging points for use by their staff.

I hope you enjoy this edition and find these articles of interest. Do feel free to let the articles' authors, me or your regular contact know if you have any questions concerning the matters discussed.



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Employment tax update

Where are we on the IR35 rules?

The turbulence created from announcements made by the past Chancellor, Kwasi Kwarteng, concerning the decision to repeal the changes to the IR35 legislation came as a major surprise to many.

However, following the recent appointment of Jeremy Hunt as the new Chancellor, the repeal has been reversed – but it has created widespread confusion. This article attempts to clarify and provide some suggestions on what schools should be thinking about as we head into 2023.

What is IR35?

The IR35 legislation, which was first introduced in April 2000, was an attempt to reduce the loss of income tax and NI for contractors who provided their services via an intermediary – typically a personal service company (PSC). HMRC always felt that the level of compliance was very low, as the responsibility for considering the application of the legislation fell upon the contractor. Furthermore, challenging the status of contractors was, in HMRC's view, highly time-consuming and expensive for all parties, as cases were often referred to the tax tribunal to consider.

The changes, which came into effect in both 2017 (public sector) and 2021 (private sector) saw the introduction of the Off-Payroll Worker (OPW) legislation, with the shift of responsibility for implementing the legislation move away from the contractor and over to the engager, such as a school. The adoption of the OPW legislation in the private sector changes was delayed by a year, as part of the Government's response to assisting businesses during the pandemic. Furthermore, HMRC applied a 'light-touch' for the first 12 months after the private sector legislation came into effect.

Many schools took the opportunity to review their existing arrangements and introduced processes to help with the decision-making procedures required to be in place. Some of the changes which were introduced included:

- Centralising who has oversight of the contracts
- Undertaking reviews of the contracts
- Issuing status determination statements
- Putting in place a dispute resolution process

If a school has not yet put any procedures in place, this is something which should be strongly considered to help mitigate any potential challenges from HMRC, or from the worker themselves. We are expecting to see an increase in HMRC activity during 2023, and it is important that schools regularly review their OPW and wider contractor arrangements on a regular basis.

HMRC has a wide range of anti-avoidance measures at its disposal, which it is expected to use post-April 2023 in order to attack any perceived non-compliance in the supply chain. Schools will also be required to retain copies of the decisions for up to six years in case of any HMRC enquiries.

Employment status

Generally speaking, the more significant challenge for schools is where any engagements are with the individual directly – as opposed to, for example, any PSC they may operate through. The question of employment status has always been present and will remain unaffected by recent developments.

There is no statutory definition as to what constitutes 'employment' or 'self-employment' for Income Tax or NI purposes. As such, it is necessary to take guidance from case law – provided by both tax and employment tribunals – which in turn has helped to identify a number of key characteristics to be considered when determining whether a worker is considered employed or self-employed.

In the absence of any statutory guidance, to help differentiate between an employee and someone who is self-employed, the Courts have directed that all the facts of an engagement need to be ascertained, and a holistic overview taken to determine the correct and true position.

The Income Tax and NI treatment for workers who are either employed or self-employed can prove significant in terms of:

- The date when the tax is due for payment
- The class of NI due for payment
- The nature of tax-deductible expenses which can be claimed. For example, for someone who is self-employed the expenditure must be incurred "wholly and exclusively" in the performance of the trade; whereas for an employee the expense must be incurred "wholly, exclusively and necessarily in the performance of the duties of the employment."

As well as the difference in the Income Tax and NI treatment, the school has the responsibility to ensure that, where appropriate, all workers who are deemed to be employees should be put on to the payroll. Failure to do so could expose the school to paying any additional tax and NI, as well as being exposed to interest and penalty charges. There may also be reputational risk associated with any non-compliance.

All of the facts relating to the engagement need to be carefully considered and an overall picture obtained before a decision is reached, which will typically include, but not be limited to:

- The measure of control over how the work is undertaken by the individual
- The provision of equipment
- The length of engagement
- The right to provide a substitute
- The extent of any financial risk the contractor will be exposed to

Once all of the facts have been established, it will then be necessary to consider whether the contractor leans more towards employment or self-employment. In cases where there is a lack of clarity, the use of the HMRC Check Employment Status for Tax Tool (CEST) or seeking professional guidance will help the school to reach a sensible decision. However, the obligation to correctly determine the tax status of any worker sits with the school as the engager, and not the contractor who is providing the services.

The Courts have also considered the question of the terms of an engagement.

Whilst a contract may stipulate, for example, that a substitute can be provided, HMRC will want to understand the working reality of any such arrangement. Where the facts of any engagement vary from those of the contract, then the facts will take priority.

It is recommended that schools should ideally review contracts before any work is undertaken, and certainly before any payments are made.

National Insurance changes

A further widely-publicised change was the 'reversal' of the increase to the National Insurance rates, which saw both employees and schools paying an additional 1.25% from 6 April 2022. The change came into effect from 6 November 2022, but it will not be backdated.

Additionally, the proposed introduction of the Health and Social Care Levy will be repealed.

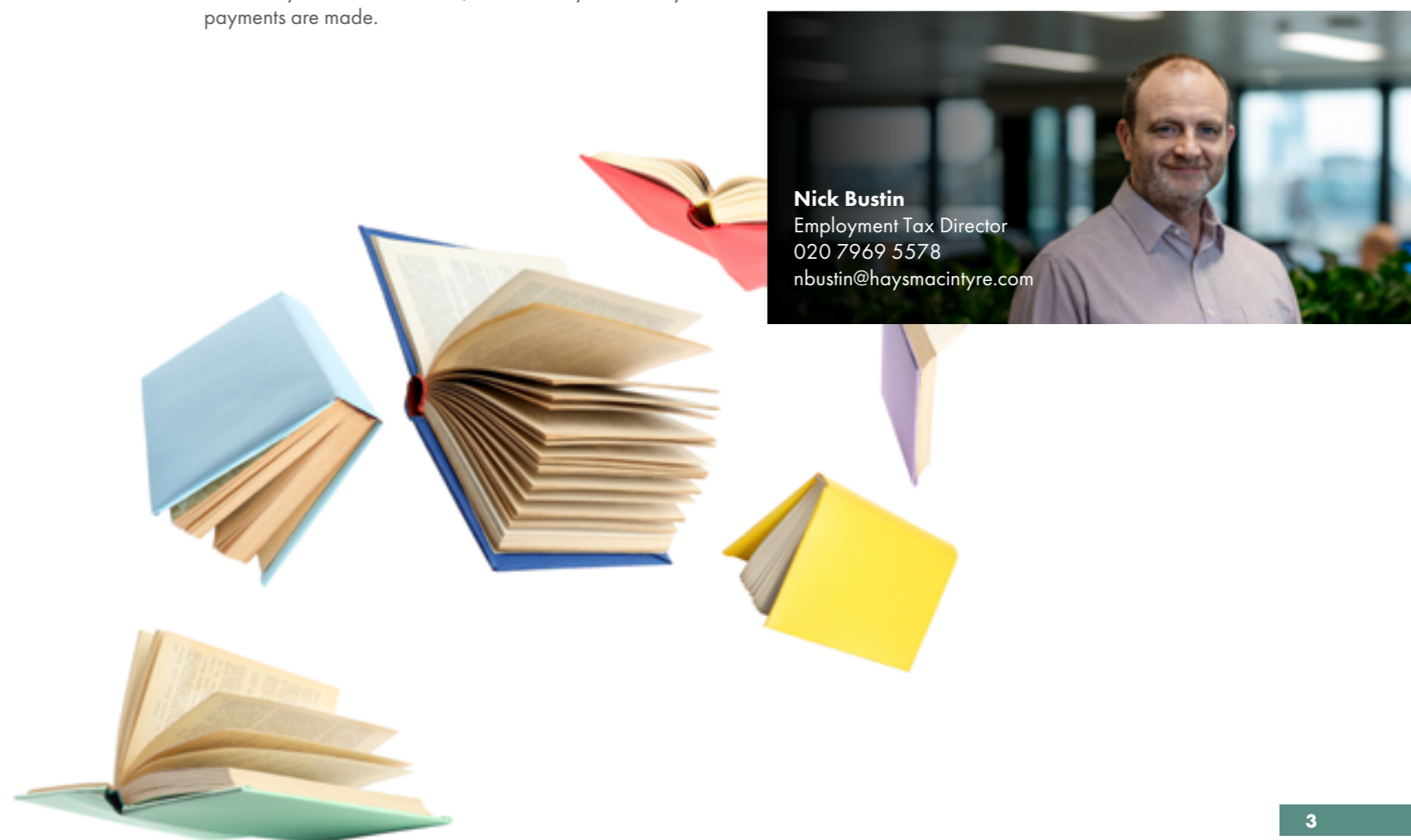
Form P11D Class 1A NI and PAYE settlement agreements

As a consequence of the various changes to the NI rates, a separate 'blended' rate of 14.53% will apply to Class 1A NI due on Form P11D benefits and PAYE settlement agreements for the 2022/23 calculations. For payrolling benefit purposes and termination payments over £30,000, the rate from 6 November 2022 reverted back to 13.8%.

Pension salary exchange

Whilst the state of the economy is very much front of mind for many, schools may want to consider introducing pension salary exchange for those employees who are operating defined contribution schemes – if they have not already done so.

The use of pension salary exchange, which remains one of the few 'favoured' arrangements which can be provided in conjunction with a salary exchange, can help to provide additional pension savings for employees. Furthermore, there is the possibility for the employee to see a small additional increase in their 'take home' pay without this having an impact on the school's costs.



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Recent fiscal statement updates

Just 55 days after what proved to be the disastrous Mini Budget, the new Chancellor, Jeremy Hunt, delivered his Autumn Statement, addressing a £55bn gap in the public finances. The Statement includes some significant tax increases, primarily through the freezing of tax thresholds and the reduction in some tax exemptions and allowances.

The tax announcements include:

The VAT registration threshold will be held at £85,000 until March 2026

The threshold for the additional (45%) rate will reduce from £150,000 to £125,140

The Employment Allowance will be maintained at £5,000 until 2026 and Employer threshold frozen until 2028

Energy Profits Levy will increase to 35% from January 2023 until 2028

Dividend Allowance to be cut from £2,000 to £1,000 in 2023-24 and to £500 from April 2024

R&D tax relief for the SMEs deduction rate cut to 86% and the credit rate to 10% but increase the rate of the separate R&D expenditure credit from 13% to 20%

The Income Tax thresholds will be frozen for a further two years, until 2028

Capital Gains Tax: the Annual Exempt amount will be reduced from £12,300 to £6,000 for 2023-24 and to £3,000 from April 2024

Holiday pay for part-year workers: what are the practical implications of the Brazel judgment?

Simon Bevan, partner at law firm VWV, considers the practical impact on schools of the landmark Supreme Court judgment in the case of *Harpur Trust v Brazel*.

What was the outcome of the case?

The judgment concerns the statutory holiday entitlement of permanently retained part-year or irregular hours employees and workers (described here as “workers”). The Supreme Court confirmed there is no mechanism within the Working Time Regulations (WTR) to allow statutory holiday entitlement to be reduced to less than the statutory minimum of 5.6 weeks. Holiday pay entitlement may not be reduced to account for part-year or irregular hours working.

What could the judgment mean for your school?

Schools often use the ‘percentage method’ to calculate holiday pay for part-year and irregular hours workers at the rate of 12.07%. This approach was, until recently, promoted by ACAS and the Government. It represents the statutory holiday to which year-round staff are entitled (as 5.6 weeks equates to 12.07% working time). The thinking was that if 5.6 weeks holiday equates to 12.07% working time for a year-round worker, then it would be fair to also pay holiday pay at this rate for a part-year or irregular hours worker.

The percentage method can result in part-year and irregular hours workers receiving less than 5.6 weeks statutory holiday. Following *Brazel*, we now know that there is no mechanism under the WTR to pro-rate statutory holiday in this way. If your school currently uses the percentage method, or indeed if it pro-rates the minimum 5.6 weeks of statutory annual leave for affected workers in any other way, you should now review the school’s approach in order to determine any potential liability.

Understanding the scope of the judgment

When you commence your review, you will first need to determine which categories of worker are potentially affected. The judgment affects permanently retained part-year and irregular hours workers. There are therefore some categories of staff you can exclude from your review. For example, teachers are not normally part-year workers as they take all school holidays as holiday with pay. Likewise, any short term casual staff who are not retained permanently by the school can be excluded. These staff can be paid on a pro-rata basis in lieu of accrued but untaken holiday on the termination of their short term employment.

Planning a communication strategy

Having identified the categories of potentially affected workers, you have an opportunity to plan your communication strategy. It could take some time to assess the full impact of the judgment on each category of affected worker. Potentially affected workers may have heard about the judgment in the press or through conversations with colleagues. If so, they may be wondering about the impact on them personally. In order to allay concerns and reduce the likely queries, you may find it helpful to communicate either on an individual basis or via work place representatives as appropriate. Any communication could acknowledge the school’s awareness of the judgment and confirm you are currently assessing its impact. You should take care not to speculate on what the outcome of that assessment could be, but instead confirm you will be in touch again once you know more. In communicating in this way, you will be adopting a proactive approach whilst also buying time to carry out potentially time-consuming calculations and determining an appropriate strategy.

Determining whether there has been an underpayment

Your next task will be to review the extent to which there has been an underpayment at your school. If there has been, the school could be liable for up to two years’ back pay per affected worker.

In order to assess whether there has been an underpayment, you will need to identify how holiday pay is currently calculated and paid. You will need to calculate the amount of holiday pay each affected worker has received over the last two years. You will also need to carry out a separate calculation in order to establish how much holiday pay that worker should have received over the same period. The difference (if any) between the two amounts is the amount the school could be liable for in back pay.

It is possible that despite your school needing to change the way it calculates holiday pay in future, there nevertheless has not been an underpayment. For example, if your school’s holiday entitlement exceeds the statutory minimum, it is possible that affected workers will still be receiving more than statutory minimum leave and pay, even if the way holiday pay is calculated does not comply with the judgment. Similarly, if your school uses the percentage method, but uses a percentage higher than 12.07%, then again you might find you have paid at least the statutory minimum holiday pay. If so, you may find there is no liability for back pay.

Holiday pay calculations going forward

Going forward, in order to be legally compliant your school must ensure each permanently retained year round worker receives a minimum of 5.6 calendar weeks’ holiday. There will likely be a requirement to update colleagues on any contractual variation which may now be required. In order to carry out this calculation in the technically correct way, you will first need to calculate the amount of one week’s pay. Once you have calculated that figure, multiply it by 5.6 in order to calculate one year’s holiday pay.

The correct method of calculating the amount of one week’s pay for these purposes, is set out in sections 221 - 224 of the Employment Rights Act 1996, which broadly states that:

- For staff with normal working hours and pay that does not vary, the amount of one week’s pay is the amount payable under the contract of employment if the worker works their normal working hours in one week
- For all other staff with variable pay and/or hours, the amount of one week’s pay will be calculated based on their average pay over the last 52 worked weeks. There is a prescribed method for carrying out this calculation, which requires unworked weeks to be substituted with worked weeks going back a maximum of 104 weeks. This approach avoids a worker’s average weekly pay being reduced to account for weeks where they are not working.

A strategic approach to back pay

If your school has been underpaying holiday pay, you will need to consider your approach to back pay. In the event of an unlawful deductions claim in the Employment Tribunal, there is a two year rolling backstop for statutory holiday underpayments. This means your school's holiday pay liability will not be increasing over time.

In some circumstances, you may also be able to argue that back pay should be limited further, if the deductions (i.e. the underpaid holiday payments) have been spaced out by more than three months. If so, your school could seek to rely on the "series of deductions rule" which states that if there is a gap of more than three months between deductions, this will break the chain of deductions. If the chain is broken, this prevents the claimant going back further in time, so being much less than the two year limit. However, this is a controversial rule which commentators believe could be successfully challenged in future. We would therefore recommend individual advice is taken if your school wishes to rely on the series of deductions rule to limit its liability.

A claim for an unlawful deduction needs to be brought within three months of an underpayment (or the last underpayment where there is a series of deductions) so some claims, for example from staff who have left your employment, may be out of time. You are not under any obligation to proactively contact former staff. So three months after leaving your employment, they will be out of time to bring a claim.

It is for each school to determine its approach to correcting underpaid holiday and updating holiday pay calculations going forward. Various factors will inform this decision, including the wish to protect the school's reputation as an employer, which will be balanced against the school's commercial position.

A commercial approach

There is no right of appeal against a Supreme Court judgment. Therefore, unless there is legal reform in this area, we now have certainty in respect of part-year workers' holiday pay rights. You may wish to conduct a wider review of your school's contractual arrangements, as well as its use of part-year and irregular hours workers. For example, the school could contract with casual staff using short fixed-term contracts which terminate at the end of a work assignment, rather than having an over-arching zero hours employment contract in place. This would allow the worker to be paid in lieu of their accrued but untaken statutory holiday on a pro rata basis on the termination of an assignment. Alternatively, you could look to increase the school's use of existing part-year and irregular hours workers, so whilst they will be entitled to 5.6 weeks' holiday, they are working more weeks per year, so that the holiday pay calculation brings them more in line with those who work 46.4 weeks per year.

This is a judgment which has received a considerable amount of publicity, although individual claims do not appear to be being issued yet. Before a school comes under pressure to act from its workers, we recommend a pro-active approach to identifying the extent to which your school is impacted so that holiday pay calculations can be updated if required and any historical liabilities can be identified and resolved. This will be required when working with your audit partner and provision made for any latent material liability in the school's accounts. Knowing and understanding the school's potential liability is key to determine the school's next steps.

If you would like further advice, please do contact Simon Bevan on 07980 828 004 or sbevan@vww.co.uk who acted for the Harpur Trust in this case from 2014 to final judgment in July 2022.



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Gift Aid on charitable giving

There is evidence that the amount of unclaimed Gift Aid across the UK remains at £500m. This represents the value of Gift Aid which could have been claimed by charities on eligible donations but was not. The enormity of the figure is eye watering, and with charities looking to increase their income in these difficult financial times, reducing this Gift Aid gap should be on every trustee's agenda. This article provides a short summary of the main circumstances in which Gift Aid can be available for an independent school, some recent changes to note, and pointers on how to maximise the amount reclaimed from HMRC.

Outline of the system

The Gift Aid regime is a system for delivering tax relief in respect of cash gifts to charities by individuals. In order to claim Gift Aid, your school or related PTA must be recognised by HMRC as a charity for tax purposes. References below refer to a school recognised as a charity by HMRC.

When an individual makes a donation under Gift Aid, the donation is treated as having been made from the donor's income after deduction of basic rate income tax. This means that the school can claim the basic rate tax (currently 20% of the grossed up gift) and the individual can reclaim any tax that they have suffered at the higher rate (currently a further 20% or 25%, depending on their tax rate). This sharing of tax relief is often a key factor in encouraging donations and should be highlighted during fundraising campaigns wherever possible.

This means that the value of a Gift Aided donation of £100 is increased to £125 by Gift Aid.

Gift Aid is a valuable relief, and the main rules are as follows:

- The donation must be the payment of a sum of money
- The donor must be a UK taxpayer (and not a company)
- The donor must complete a valid Gift Aid declaration form in the name of the school
- Benefits received as a consequence of the donation must not exceed certain limits – see below

Under the Gift Aid rules, an element of benefit is allowed to be given to the donor, as a consequence of the donation made to the school. This is a mechanism to enable the school to provide a small thank you to its donors. The benefit limits allowed depend on the amount of the donation made. The maximum value allowed is as follows:

Amount of donation	Maximum value of benefits received
£0-£100	25% of the donation
£101+	£25 plus 5% of the donation above £100 (max benefit £2,500)

Points relevant to schools

Cash versus assets?

The gifting of assets other than cash, for example book collections or artwork, do not attract Gift Aid and are not covered by the Gift Aid uplift set out above. There are however other tax reliefs available for this type of charitable giving which may be attractive to your donors, but these are not covered in this article.

Forfeited and gifted deposits

One area that is particularly common for schools is that regarding unwanted deposits and other returnable payments. Frequently parents and guardians indicate that they wish to give up their right to receive refundable deposits and wish instead for the school to keep the amounts.

On the face of it, this is akin to a charitable donation by the parent or guardian to the school. However, due to the strictness of the Gift Aid rules, it was difficult to fit these waivers into the rules without significant administrative burden on the school.

Happily, HMRC has now relaxed its rules in respect of waivers and loan repayments which will mean that there is more access to Gift Aid for schools in respect of gifted deposits. Although this relaxation in the rules was in fact written as a reaction to many cancelled events during COVID-19 lockdowns, it does also have a helpful outcome for schools as follows:

- Where the parent/guardian waives their right to a refund of a deposit the payment can be eligible for Gift Aid
- The "donation" is treated as made at the date of the waiver (rather than at the original payment date)
- The school will need to collect a signed Gift Aid declaration from the parent/guardian
- A record of the waiver by the parent/guardian should be kept – emails and recorded calls are acceptable records in this instance

The above rules should therefore cover most circumstances relating to waived deposits, although it should be noted that HMRC suggests that the larger the payment, the more formal the waiver and related records should be. Therefore, caution and perhaps additional advice should be sought for larger amounts to ensure that Gift Aid is captured correctly.

Maximising claims

As the rules are complex, it can be easy to overlook opportunities to claim Gift Aid for your school. We have set out below a few areas that you should consider in light of your school's claims to ensure that Gift Aid is being maximised:

- Take care not to exclude donations where the donor has an unusual address. Claims can still be made for donors living in care homes, overseas, in houseboats and pubs. As long as the donor is a UK taxpayer and has provided a valid Gift Aid claim, then the claim should be valid. HMRC does not expect you to investigate every donor's address details, therefore if it looks reasonable, make a claim.
- Follow up with donors where you believe there to be missing or unclear information from their Gift Aid declaration. In addition, where donors have not completed a Gift Aid declaration, check to see if they are eligible to complete a declaration. If you think there is an opportunity to claim Gift Aid, then take the initiative and make contact with your donors.
- Consider making prior year claims where they have not been made. For an incorporated school, the time limit to make a claim is four years from the end of the accounting period in which the donation was received.
- Ensure your staff/finance team are trained in the Gift Aid process and can communicate to donors how Gift Aid is operated.

As you can see from the above, Gift Aid is a valuable part of your fundraising campaigns and can provide an additional boost to fundraising for your school. If you would like further information on any of the areas covered above, please contact Louise Veragoo or your usual haysmacintyre contact.



IT General Controls

This article refers to ISA 315 (revised) and focuses on the impact on organisations that require an annual audit of their financial statements. The revised ISA 315 becomes effective for audits of financial statements for periods commencing on or after 15 December 2021 and, unless a shortened reporting period, will be effective from 31 December 2022 year ends.

What are IT general controls?

These are controls that are applied to IT systems in schools, which includes operating systems, billing and payment systems, pupil database, applications, core IT network and infrastructure. They govern how IT systems are designed, implemented and used within the school. The main objective for IT general controls is to ensure integrity of the data that the IT systems support.

What do IT general controls help with?

The main accounting system connects to several feeder systems with an automated or manual process. The IT general control governs the technology that various applications use to process data, and how the information links to or between the financial systems.

Below are some examples of IT general controls which would be expected in a school:

- IT security policy, procedures and communication with staff, contractors, pupils and volunteers
- Limited number of administrator accounts that are able to create other user accounts within IT applications
- Management of third party users on the school's network or specific applications

- Management of change within existing IT systems by considering how changes are managed from development, testing and implementation. Similarly, software lifecycle management when thinking of new systems in the organisation
- Data processing and systems interfaces between one or more applications at the school and exception reporting
- User access management ensuring that only authorised users have access to systems and data, and where possible restricting access based on user's roles and responsibilities
- Password management and other forms of authentication to ensure that each system and application has appropriate access
- Systems patching is rolled out promptly to all systems and applications that need an upgrade
- Devices have adequate virus protection software to constantly monitor and report on incidents
- Ongoing logs of changes to the IT systems are recorded and monitored which should be made available during an audit.

The ISA 315 (revised) now requires external auditors to place a greater emphasis on IT general controls as part of their audits over financial reporting, and their impact on the risk of financial misstatement.

Deficiencies of IT general controls and impact

The impact of deficiencies in the IT general controls can be significant to schools as this will impact security, compliance, and operational matters, particularly where there is significant reliance on the IT systems and applications.

Below is a summary of potential impact to the organisation over deficiencies in IT general controls:

- Data loss and manipulation
- Fraud
- Inaccurate financial information or reporting to management
- Presenting a greater risk of resulting in a misstatement
- Increased audit or compliance costs from additional transactional testing
- Reputational damage

What IT general controls preparations should schools make?

The reliance on technology is high for schools due to the level of data and often multiple systems required for its operations. To ensure there is a good understanding of the IT infrastructure and IT general controls, management should consider the following points to better understand their control framework:

- Are there documented IT infrastructure documents that provide details on system applications and data flows between various feeder systems?
- Are there documented IT controls where data is transferred from one application to another?
- Is there an up to date IT security policy and procedure which is communicated to all staff?

- How are users managed across the organisation ensuring they only have access to applications necessary for their role?
- Who has access to and the level of access to various systems and databases across the organisation?
- Are password arrangements in line with best practice, including multi-factor authentication when accessing IT systems?
- Is there a patch management strategy in place and is this monitored by the IT team?
- Is the application and system data regularly backed up and tested for recovery?

Conclusion

IT general controls have had greater emphasis due to security and integrity of data when management are making key decisions. External accreditation, such as Cyber Essentials, provides assurance to management over its IT general controls and we have seen a number of organisations achieve the accreditation from external assessors.

It is essential for schools to understand the IT framework and assess unmitigated control gaps that could collectively lead to security, compliance or operational risks. An assessment and evaluation, with the help of specialists or external audit, will aid understanding of vulnerabilities that could potentially reduce the risk of financial misstatement or frauds.

Finally, it is recommended that early discussions are held with external auditors on what information is required in preparation for the ISA 315 (revised) to ensure audit risk assessments on the IT controls are fully considered at the planning stage for 2023 school audits.



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VAT in relation to Electrical Vehicle Charging

With the increasing costs of traditional vehicle fuel and a corresponding rise in the popularity and accessibility of electric vehicles (EV), more and more employers, including schools, are installing EV charging points for use by their staff in their car parks.

HMRC accordingly released updated guidance last year relating to the VAT liability of charging of electric vehicles in their HMRC Brief 7 (2021). This also covered situations where EVs are charged at the employer's premises, where HMRC's wording has (perhaps predictably) caused some confusion.

In the brief, within the section dealing with employees charging an employer's EV (that has both business & private usage) at the employer's premises, HMRC have stated:

"Your employee needs to keep a record of their business and private mileage so that you can work out the amounts of business use and private use for the vehicle.

You can recover the full amount of VAT for the supply of electricity used to charge the electric vehicle. This includes the electricity for private use. However, you will be liable for an output tax charge on the amount for private use. This is because a 'deemed supply' has been made. Alternatively, you can recover VAT on only the business element. The usual input tax rules apply."

The wording has been taken by some to understandably mean that any VAT registered employer is entitled to recover this VAT incurred on the electricity usage on the basis of business usage. As such, some schools have seen this as guidance from HMRC that they too can fully recover the VAT for their staff charging the EVs.

However, what seems to be overlooked in this poorly worded section, is the last sentence that HMRC have tacked on, that the "usual input tax rules apply". As such, the VAT would only be recoverable in the context of "business making only" taxable supplies. With regard to schools, the "usual rules" are that VAT is not recoverable on costs used in making exempt supplies. Unfortunately, as per input tax incurred on other costs, this would mean that most schools would not be able to recover the majority of the VAT incurred on the electricity due to their exempt school fees.

Reduced VAT rates for other fuels

Similarly, to the rising cost of vehicle fuel, there has been an increase in utility costs, with even more drastic increases expected in the current uncertain economic climate. Naturally, considerations arise on whether a school could potentially lower their utility bill costs. As schools are unable to recover the VAT element of their utility bills, a route which may be worth exploring is whether a school could benefit from the reduced rates of VAT available.

Fuel is usually charged at the 20% standard rate of VAT, but the UK does make available a reduced rate of VAT of 5% on some fuels when they are for qualifying use. Qualifying use in this context is either domestic use or non-business use by a charity.

Fee-charging schools would not meet the qualifying criteria for non-business use.

Schools with residential accommodation for students or pupils may already be benefitting from 5% VAT to the extent that boarding houses are separately metered, as this is considered qualifying domestic use. Classroom and other non-residential buildings would not usually meet the criteria for domestic use.

However, there is a de minimis provision which allows small quantities of fuel to be regarded as being for domestic use and therefore qualifying for the reduced-rate, even when used by business customers. The de minimis levels are as follows:

- 4397 Kw hours a month of piped gas
- Not more than 1000 Kw hours a month
- A supply of not more than 2,300 litres of fuel oil, gas oil or kerosene

The majority of school buildings would exceed the minimal uses stated above when total usage is considered, however where schools have multiple metres for separate buildings, they may qualify for the de minimis levels of gas and electricity. It may even be worth considering installing separate meters for separate buildings if individual buildings would meet the low usage stated above as this would lead to a 15% cost saving.

Similarly, where schools use fuel oil, gas oil or kerosene, a method of benefitting from the lower rate is in spacing out your orders of the fuel and keeping each individual purchase to under 2,300 litres. This will allow you to save 15% of VAT as the supplier will be able to charge you 5% VAT on each purchase.

These measures may not be possible, but with the pending 'cost of living crisis' every little helps and these measures could be considered.

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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 over 40% 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.

Quarterly charities update

Tuesday 6 December 2022

15:30 – 17:30

Online

Trustee training: Charity law update

Wednesday 15 February 2023

13:30 – 17:00

Online

Trustee training: Introduction to charity finance and reporting

Tuesday 7 March 2023

09:30 – 13:00

Online

AGBIS – Finance for non financial governors

Wednesday 8 March 2023

09:30 – 17:30

haysmacintyre

Quarterly charities update

Tuesday 14 March 2023

15:30 – 17:30

Online

AGBIS annual conference

Monday 20 March 2023

09:00 – 17:00

QEI Centre, London

Trustee training: What every trustee should know

Thursday 30 March 2023

09:30 – 13:00

Online

Bi-annual schools update

April 2023

15:30 – 17:30

Online

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

Schools 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 Schools team as detailed below.



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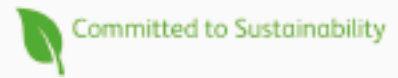
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Shortlisted 2019 National Firm of the Year



Shortlisted 2019 Tax Team of the Year



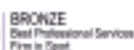
Highly Commended Partner of the Year



Winner: Audit Team of the Year



Winner of the Bronze Award for 2018 and 2017



Top adviser to the top 5,000 charities, Charity Financials' league table 2021



Top ten by audit fees in the 2020 Charity Finance Audit Survey