

eNews

7 FEBRUARY 2023

Welcome to haysmacintyre's regular 'e-news alert' for corporates and private individuals.

## City of London Chamber launched

Last month the [City of London Chamber was officially launched](#) at the Guildhall. The Chamber will represent the interests of all businesses operating in the Square Mile, which includes over 24,000 SMEs. It will be campaigning on the key issues that affect them including business rates, improving footfall after the pandemic, labour and skills shortages, business crime and the City's future international competitiveness. haysmacintyre is proud to be a founder member of this Chamber. If you would like your business to join us, please see further details [here](#) or contact [Member Support](#).



## IR35 cases: a tale of two (fly) halves

In recent weeks we have seen two contrasting tribunal decisions regarding IR35 cases which provide different outcomes regarding Sky Sports rugby commentators, Michael Lynagh and Stuart Barnes. The underlying message is that the IR35 legislation is complicated and nuanced and the need to fully understand the facts concerning how the services are provided is paramount. We summarise the two cases below but, if you require assistance with IR35 matters, please do not hesitate to contact our [Employment Tax](#) team.

## Michael Lynagh v HMRC: caught offside

MPTL Limited (MPTL), Michael Lynagh's personal service company, was [appealing against an earlier determination](#) that Lynagh's earnings from MPTL were within the scope of IR35 and that income tax and National Insurance of c£230,000 was due. The case concerned procedural issues, specifically the late submission of a Notice of Appeal. The application was dismissed on the basis that the taxpayer was professionally represented and HMRC's delay in responding to a letter had not prejudiced proceedings. The moral of the decision is to ensure all deadlines are met when dealing with any matters which are in dispute with HMRC.

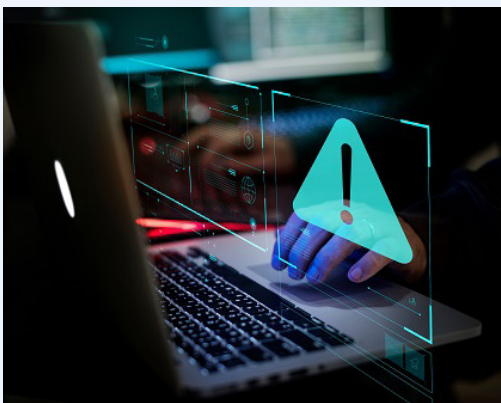


### S & L Barnes Limited v HMRC: stayed inside

In contrast to Michael Lynagh, the [First Tier Tribunal](#) decided that Stuart Barnes was not caught by the IR35 legislation after HMRC had argued that c£700,000 of income tax and National Insurance was due for the 2013/14 to 2018/19 tax periods. HMRC said that the contract between S & L Barnes Limited and Sky was one of employment and within IR35. The Tribunal considered whether the engagement had the characteristics normally seen in an employment contract and concluded that Barnes, given the specific facts in this case, was in business on his own account and was operating under a contract for service and not as a deemed employee of Sky.

### The best or worst of times?

Research by the [Quoted Companies Alliance](#) (QCA) says that the length of public company annual reports have increased by 46% in the last five years due to new reporting requirements. An average FTSE 100 annual report now runs to 147,000 words and 237 pages, longer than A Tale of Two Cities. The largest relative increase has been in the under £250 million AIM sector where an average 51% growth in length has occurred, with an extra 3,000 words or six pages being added each year. The QCA is calling for an urgent overhaul of corporate reporting in the interests of efficiency and clarity.

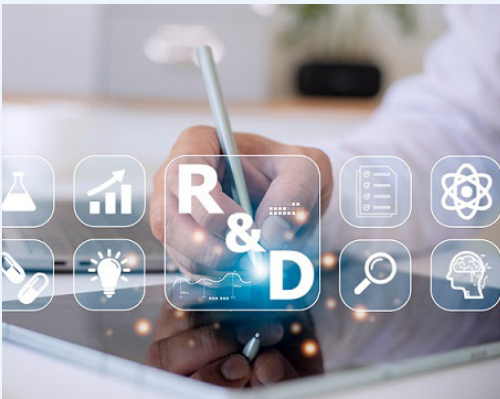


### False accounting to be a criminal offence

The Government has published an amendment to the [Economic Crime and Corporate Transparency Bill](#) which introduces the offence of false accounting for senior managers. This will hold company executives, including CEOs, CFOs and members of partnerships, accountable for failing to prevent false accounting, fraud or money laundering. The offence will affect all senior managers who are responsible for an organisation's activities that are relevant to the offence if they fail to take all reasonable steps to prevent that offence being committed.

## London still the top spot

Research recently published by the City of London Corporation demonstrates that London remains in the top spot for financial and professional services overall across 95 different metrics. London's overall competitiveness score was 61, compared to New York's 58, Singapore's 53, Frankfurt's 45, Hong Kong's 39 and Tokyo's 36. The research found that London maintains an innovative ecosystem and its financial services regulatory regime remains the most favourable in the world. Nevertheless, the report highlighted areas for improvement such as improving broadband speeds, which are currently the slowest of all global financial centres, and investing in its transport infrastructure.



## R&D reliefs under attack

The House of Lords Economic Affairs Committee has called on HMRC to improve its compliance capability and crack down on abuse of the research and development (R&D) tax credit system. The Committee is concerned by escalating abuse of R&D relief, which included an organised criminal attack in April 2022, which led to a temporary suspension of repayments and rogue advisors targeting small companies persuading them to make claims. It is estimated that £469 million was lost to error and fraud in 2021-22.

## Are Organix and Nakd bars confectionery for VAT purposes?

The Upper Tribunal (UT) has ordered the First-tier Tribunal (FTT) to reconsider its decision that Organix and Nakd bars should be standard-rated, as confectionery items, and not zero-rated. In 2021, the FTT had found in favour of HMRC and rejected Morrisons' £1.1m VAT reclaim on the basis that such bars should be zero rated. The UT agreed that an error in law had been made by the FTT, whereby they wrongly treated certain factors as irrelevant when considering what made a food product confectionery. This is a notoriously complex area. Please contact Phil Salmon if you require assistance with your VAT.



## And finally... tax return record

HMRC has announced that a record 11.7 million tax returns were submitted before the 31 January 2023 deadline. Over 860,000 returns were filed online on the last day with nearly 37,000 leaving it to the last hour. HMRC expected 12 million returns to be filed for 2021/22. Interest is now accruing on unpaid tax and late filing of a tax return will attract a penalty of at least £100. Tax unpaid 30 days after the filing deadline will also attract a penalty of at least 5%.

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Shortlisted 2019 National Firm of the Year



Shortlisted 2019 Tax Team of the Year



Highly Commended Partner of the Year



2021: Best auditor  
2020: Best outsourced finance service



Winner: Audit Team of the Year



Top 15 auditor to quoted companies in Adviser Ranking Listing



An eprivateclient top accountancy firm 2022