

Tax and the City

Client briefing

The OECD has released further Administrative Guidance, a revised GloBE Information Return and a peer review framework for domestic GloBE legislation, while the UK considers consultation responses on draft Autumn Finance Bill legislation to implement the January 2026 Side-by-Side package and other technical changes. The Upper Tribunal's decision in *Hunt* is a reminder that taxpayers cannot rely on the judiciary to rewrite imperfect legislation, with the Upper Tribunal taking a firmly contextual approach to interpreting the transactions in securities rules. The latest Corporation Tax Statistics show financial services continue to be the UK's biggest payer of corporation tax, with receipts from the sector up 97% over six years. HMRC's new guidance on VAT and fund management services (GfC20) reinforces their view that bundled services will usually comprise a single supply, increasing the importance of reviewing outsourcing arrangements and the potential implications under the uncertain tax treatment rules of taking a different view.

GloBE: latest OECD package and UK developments

The GloBE rules seek to ensure large multinational enterprises pay a minimum effective tax rate of 15% in each jurisdiction in which they operate. The rules are based on OECD Model Rules supplemented by Commentary and Administrative Guidance (AG). The latest OECD package demonstrates that the GloBE regime continues to evolve at both the level of the

OECD's Inclusive Framework (IF) and at a domestic level.

Peer review process

The common approach requires implementing jurisdictions to align their domestic rules with the Model Rules, Commentary and AG and to accept the application of the GloBE rules by other IF members. Consistency will be assessed through a transitional self-certification process, a full legislative review and ongoing monitoring. The September package includes the framework for the legislative review process and further detail on ongoing monitoring, including a list of topics that have been identified for ongoing monitoring which will be added to on a continuous basis as other areas are identified.

September 2026 AG

The latest AG addresses two issues. The first is the treatment of 'Explicitly Conditional Taxes' (ECTs) which are described as conditional or discriminatory taxes that apply only where tax would otherwise be payable under the IIR or UTPR in another jurisdiction by a GloBE taxpayer. Such a tax is not payable by a non-GloBE taxpayer. The effect is that the additional local tax liability is offset by the reduction in the tax payable under the IIR or UTPR. To protect the integrity of the GloBE rules, a new paragraph 23 will be added to the Commentary providing that Explicitly Conditional Taxes will not be treated as 'Covered Taxes'. Paragraph 23.3 will clarify that a tax which applies only to constituent entities of MNE groups whose consolidated revenues meet a certain threshold will not be considered to be an ECT. Further guidance will

be issued by 31 December 2026 (to be applied prospectively) on other features of a tax or benefits provided in respect of a tax that will result in that tax also being treated as an ECT.

Second, the AG clarifies when constituent entities may use local financial accounting standards for QDMTT purposes, addressing uncertainty in the operation of the QDMTT safe harbour.

Updated GIR

The GloBE Information Return (GIR) has been updated to incorporate the simplifications included in the January 2026 Side-by-Side package and new notes in the Explanatory Guidance clarifying how existing GIR data points should be completed. The IF is also exploring the possibility of facilitating coordinated information requests from jurisdictions in respect of risks identified from the GIR and suggests jurisdictions could 'conduct coordinated risk assessment activities on the basis of the information provided in the GIR in order to determine whether further actions such as a tax audit are required'.

UK developments

The Autumn Finance Bill will include legislation to implement the Side-by-Side package and make certain other technical changes. Draft legislation was published on L-Day for consultation over the summer. It is hoped that the final legislation will address points made in response to the consultation such as the need to better align the UK's international expansion safe harbour with the OECD Commentary in relation to tangible assets held by flow-through entities; and some differences in outcome between the UK legislation and the OECD Qualifying Tax Incentives safe harbour, particularly in relation to qualifying refundable tax credits and marketable transferable tax credits.

Hunt: statutory interpretation

The transactions in securities (TIS) rules in ITA 2007, ss 682-713, form part of the anti-avoidance rules which permit HMRC to issue a notice to counteract certain income tax advantages arising from TIS. The TIS rules date back to 1960 but were substantially rewritten in 2007 and amended again in 2010 and 2016. In *The Executors of P Hunt and others v HMRC*, the Upper Tribunal (UT) had to determine whether the TIS rules applied in relation to consideration received by the taxpayers as part of a reduction of capital by a UK limited company in April 2015. This turned on whether a reduction of capital by a UK limited company fell within the s 685(6) exclusion (as it was then drafted following the 2010 amendments but before the 2016 amendments).

At the relevant time, s 685(6) provided: 'The references in subsection (2)(a) and (b) to assets do not include assets which are shown to represent a return of sums paid by subscribers on the issue of securities, despite the fact that under the law of the country in which the company is incorporated assets of that description are available for distribution by way of dividend.'

The taxpayers argued that the s 685(6) exclusion applied to exclude all returns of subscribed capital whereas HMRC argued it applied only to returns of subscribed capital where under the law of incorporation of the company those sums were legally distributable by way of dividend. The UT agreed with the FTT's conclusion that HMRC's view was correct and that the TIS rules did apply on the facts. The case raises two interesting points about statutory interpretation which are not confined to the TIS rules.

Correction of drafting errors in legislation

The first is that the circumstances in which a tribunal or court can correct a drafting error in legislation are very limited. There needs to be a clear and obvious drafting error meeting the criteria set out by the

House of Lords in *Inco Europe* [2000] UKHL 15. HMRC argued that s 685(6) incorrectly referred to s 685(2)(a) and (b) (the description of the circumstance) when it should instead refer to s 685(4)(a)(i) and (ii) (the definition of relevant consideration) and that the tribunal was required to correct this error. On the facts of this case, the UT agreed with the FTT that it was not clear and obvious that there was an incorrect cross-reference in s 685(6) rather than a deliberate change as part of the Tax Law Rewrite process of 'simplification' and, accordingly, the *Inco Europe* criteria were not satisfied.

Interpretation of statutory language

The second point of more general interest is the approach a tribunal or court takes to the interpretation of the language of the statute in the context of the section itself. In this case the phrase 'despite the fact that' (which first appeared in the legislation as enacted as part of the Tax Law Rewrite and was referred to in the case as the 'tailpiece' of s 685(6)) was interpreted to mean 'where' (HMRC's view) rather than 'even where' (the taxpayers' view).

Viewed in isolation, the taxpayers' interpretation arguably appears closer to the ordinary meaning of the phrase. For example, despite the fact that we know some foods may not be good for us, we continue to eat them. But in the context of the full provision (as it was at the time) as shown above, the UT agreed with the FTT's analysis that 'the natural reading of s 685(6) is not that the 'tailpiece' is clarifying the opening words, but rather that the tailpiece is a qualification for the operation of the provision as a whole.' The effect of this is that the exclusion applied only where subscribed capital could be distributed by way of dividend under the law of incorporation of the relevant company. As this is not the case for a UK limited company, the exclusion did not apply on the facts of this case.

This case shows that it is not the role of the tribunal to ignore the clear words of Parliament to produce a coherent result or to level the playing field. 'Our job is

to interpret the legislation as it is written not to engage in a search for absolute consistency in the approach to repayments of capital in companies that can and cannot distribute subscribed capital by way of dividend' [111].

As part of the changes in FA 2016, s 685(6) was repealed and replaced by two new subsections. Subsection (7A) repeats the wording of s 685(6) but with the reference to s 685(2)(a) and (b) replaced with s 685(4)(a)(i) and (ii) and with 'merely because' in place of 'despite the fact that'. Although the provision has since been amended, the issue of statutory interpretation remains highly relevant. As policymakers consider reform of the distributions code and commentators speculate about a further narrowing of the gap between CGT and income tax rates, *Hunt* is a reminder that taxpayer outcomes can still turn on the interpretation of a handful of words in legislation.

Corporation tax statistics 2026: financial and insurance sector continues to top the tables

The [Corporation Tax Statistics 2026](#) show that the Financial and Insurance sector continues to be the greatest payer of corporation tax (£25.3bn in 2025/26 accounting for 27% of the total corporation tax receipts). This represents a £3.6bn (17%) increase since 2024/25. Both bank surcharge receipts and bank levy receipts also increased on the previous year, in the case of bank surcharge receipts the increase was 20%, attributed largely to an increase in UK banking sector profitability. Over a six-year period, corporation tax receipts from this sector have increased by £12.5bn in value (97%). These figures provide a timely reminder of the significant contribution made by the financial services sector to UK corporation tax receipts and the potential fiscal sensitivity of any measures that affect investment or profitability in the sector.

Guidelines for Compliance on VAT on fund management services (GfC20)

HMRC's 'Help with VAT on fund management services' (GfC20) published in September is aimed at businesses providing or receiving fund management services (including outsourced fund management services) and explains when such services should be treated as single or multiple supplies for VAT purposes. As GfC20 notes, however, there are no bespoke rules or policies that apply to fund management, rather the same principles for determining if a supply is a single or multiple supply apply across the VAT system.

GfC20 summarises HMRC's approach as follows. Where a transaction consists of more than one element (for example, services supplied under a Master Services Agreement or similar overarching contract), the starting point (which HMRC say is also the end point in most cases) is that there is a single supply. Businesses should then consider the facts against a number of (non-decisive) indicators of multiple supplies. The indicators are: (i) more than one supplier; (ii) view of the typical consumer is that they are buying two or more distinct and independent supplies; (iii) terms of contract and economic reality

indicate more than one supply; and (iv) the arrangement does not extend the scope of a relief or exemption, bearing in mind the intention of the legislation. Consistent with the case law, the guidance provides that no indicator is decisive and the outcome remains highly fact specific.

The consequence of a supply of fund management being determined to be a single supply is that there is a single VAT liability, the rate of which is determined by the nature of the services supplied (*BlackRock Investment Management (UK) Ltd v HMRC* (Case C-231/19)). There is no scope to apportion a single supply between qualifying and non-qualifying funds. The supply must be made solely in respect of a qualifying fund within Items 9 or 10 of Group 5, VATA 1994, Schedule 9 and the services must be specific to, and essential for, the management of that fund.

These guidelines increase the importance of analysing outsourced fund management arrangements and where these are treated as multiple supplies, having the evidence to support this. HMRC regard the series of Guidelines for Compliance as forming part of their 'known position' for businesses within the Uncertain Tax Treatment (UTT) regime. Taxpayers adopting a different view may need to consider whether a UTT notification is required.

What to look out for:

- The Court of Appeal is scheduled to hear the appeal in *Osmond and Allen*, about the application of the purpose test in the TIS rules on 22 October.
- The Autumn Budget is taking place on 28 October with publication of the Autumn Finance Bill at some point afterwards.
- The Supreme Court hearing in *Sintra Global*, about the burden of proof in civil penalty appeals, is scheduled for 2-3 November.
- On 9 November, the OECD will host a public consultation meeting on the proposed revisions to Chapter VII of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations which provide guidance on intra-group services, following the June 2026 consultation document.

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Contact



Mike Lane

Partner

T: +44 (0)20 7090 5358

E: mike.lane@slaughterandmay.com



Zoe Andrews

Head of Tax Knowledge

T: +44 (0)20 7090 5017

E: zoe.andrews@slaughterandmay.com

London

T +44 (0)20 7600 1200

F +44 (0)20 7090 5000

Brussels

T +32 (0)2 737 94 00

F +32 (0)2 737 94 01

Hong Kong

T +852 2521 0551

F +852 2845 2125

Beijing

T +86 10 5965 0600

F +86 10 5965 0650

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