

The challenges and areas to navigate for businesses in 2022: part 2

This article is the second part of our extended piece considering the challenges facing directors and business owners in 2022. We highlight more of the pitfalls that could catch out those who aren't aware of the new obligations or tax changes coming down the track.

Extended carry back of trading losses

Trading losses incurred by trading companies in accounting periods ending during the two-year period from 1 April 2020 to 31 March 2022 can be temporarily carried back against profits of the previous three years (rather than the usual one year) on a last-in last-out basis.

The trade losses available for carry back to one year will remain uncapped.

Trade losses available for carry back to the extra two years will be capped at a maximum of £4 million (being £2 million for each of the accounting periods ended in 2020-21 and 2021-22). There is an opportunity for companies to obtain corporation tax repayments earlier.

But, where cashflow is not the key driver, it is important to run projected numbers to understand the rates that corporation tax relief can be obtained alternatively before deciding to carry back trading losses, eg carrying the losses forward against future taxable profits given the increase in corporation tax rates to up to 25% in April 2023.

Compulsory Making Tax Digital for VAT

Making Tax Digital for VAT (MTDfV) was first introduced in April 2019 and it has applied to VAT registered



businesses and persons whose taxable turnover (turnover subject to VAT) exceeds £85,000 per annum. For VAT periods starting on or after 1 April 2022, MTDfV will be extended and become mandatory for all VAT registered businesses and persons regardless of size of taxable turnover.

Under MTDfV, VAT returns are submitted either through functionally compatible software that interfaces with HMRC's API software, or via a software tool (typically known as bridging software) that links the accounting and VAT records to HMRC for the purposes of filing a VAT return. Further, VAT records must be held digitally and there must be digital links created to ensure VAT data travels along a 'digital journey' rather than being manually transferred from system to system, and from spreadsheet to spreadsheet before it reaches a VAT return template.

Changes afoot for UK GAAP

FRS 102, the main UK Financial Reporting Standard, is subject to a periodic review at least every five years. The first periodic review was completed in December 2017 with an effective date of 1 January 2019 and the Financial Reporting Council (FRC) is now commencing its second review. Any changes are expected to be effective from 1 January 2024.

The review could be significant this time round, as the FRC previously postponed the decision as to whether to seek closer alignment with international standards, allowing at least two years implementation experience of the international standards, IFRS 9: Financial Instruments, IFRS 15: Revenue from Contracts with Customers and IFRS 16: Leases. The FRC generally seeks for UK GAAP to be consistent with global standards, however it does take into account balancing improvements with stability, consistent principles

for all entities with proportionate and practical solutions and ensuring standards are cost-effective to apply. It is expected that changes will be subject to consultation in 2022.

The end of LIBOR

The London Interbank Offered Rates (LIBOR) and other similar rates like Euribor have long been the key interest rates used in financial markets and are commonly used as a reference rate for loan agreements, swap contracts, mortgages, bonds and other financial instruments. In addition, LIBOR can be found in leasing and servicing contracts, commercial contracts and often forms the basis for discount rates used for a variety of valuations used by businesses. LIBOR is derived from banks being asked to estimate their cost of borrowing and, due to its subjective nature, has historically been prone to manipulation. This has caused regulators across the globe to find alternatives. [In the UK there will be a cessation of LIBOR from the end of 2021.](#)

Businesses should be aware that the end date for LIBOR transition is fast approaching and take stock of the potential exposures, including in forecasting cashflows. Existing contracts should be reviewed to determine whether renegotiation is required or whether fall-back provisions are adequate. Amendments to financial reporting standards will assist in ensuring a smooth transition, but businesses should ensure that any renegotiation of contracts is covered by the practical expedients offered.

The impact of the Finance Act 2021 on deferred tax recognition

The Finance Act introduced corporation tax changes with effect

from 2023. These include:

- An increase in the main corporation tax rate, from 19% to 25%, for companies with profits over £250,000.
- A small profits rate of 19% for companies with profits of £50,000 or less.
- A marginal increase in the rate of corporate tax (at an effective rate of 26.5%) for companies with profits between £50,000 and £250,000.

Under UK GAAP, deferred tax is measured using the tax rates expected to apply to the reversal of any timing differences. Where these will unwind after 1 April 2023, any deferred tax asset or liability will need to be re-measured at the revised rates of tax. This will, however, also depend upon whether the year-end falls before or after 24 May 2021 (the date on which the tax laws are considered to have been enacted).

- For accounting periods ending on or after 24 May 2021, deferred tax on underlying timing differences will need to be re-measured at the new rates.
- For accounting periods ending before 24 May 2021, deferred tax on underlying timing differences will continue to be recognised at 19%, however disclosure will be required of the change in tax rates that would have a significant effect on deferred assets and liabilities.

Any re-measurements or additional deferred tax recognition will affect both the tax reconciliation and the effective tax rate. It may be necessary to provide additional explanation in the financial statements for apparently unusual movements in the tax rate.

This will be particularly relevant for companies with revaluation

movements on fixed assets and businesses carrying forward unutilised losses.

New VAT penalty regime

From 1 April 2022, there is a new penalty regime that applies when VAT returns and VAT payments are submitted or paid late. It replaces the current default surcharge mechanism. The new regime separates late payments from late filings in terms of how penalties will be levied. For late payments, no penalty is applied if the VAT is paid late but is paid in full within 15 days of the due date, or if a time to pay arrangement is proposed and accepted by HMRC. Thereafter, penalties of 2% and 4% of the amount of VAT due will be levied between 16 and 30 days overdue and over 30 days respectively.

Penalties based on a points system will be applied for late filing of VAT returns, with 1 point applying to each submission deadline missed. A £200 penalty is levied when four points have been incurred for quarterly VAT filers (five points for monthly filers). Each subsequent instance of a late submission will result in another £200 penalty. If certain conditions are met over time, the points are reset to zero. Where businesses have previously been in a repayment position or had nil returns and filed VAT returns late there were never any penalties, but the new rules mean such businesses will be penalised for failing to file returns on time.

For any advice on the areas noted above, or for any questions relating to your business in 2022, please get in touch with your usual Saffery Champness contact, or speak to Martyn Dobinson, Partner, [E: martyn.dobinson@saffery.com](mailto:martyn.dobinson@saffery.com)

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