

## CIOT responds to Arctic Systems decision



The CIOT and ICAEW Tax Faculty issued a joint press release asking the Government to take their time and reflect on the Arctic Systems decision before rushing to legislate.

The Chartered Institute of Taxation (CIOT) welcomes the decision by the House of Lords in the case of the husband and wife company, Arctic Systems Ltd.

Anne Redston, CIOT spokesperson, said: "The CIOT is delighted that, after such a long battle, the House of Lords has confirmed that HM Revenue & Customs (HMRC) were wrong to attack husband and wife businesses in this manner. The CIOT has always considered that HMRC were wrong to use this obscure legislation against small businesses like the Jones's, and the House of Lords has now agreed with us."

If the decision had gone against Mr and Mrs Jones, many married couples would have faced a very large tax and NIC cost, going back over

the last six years.

However, the CIOT urged the Government to be cautious in its response to the Law Lords' Arctic Systems decision. The CIOT and ICAEW Tax Faculty issued a joint press release asking the Government to take their time and reflect on the decision before rushing to legislate.

Andrew Hubbard, CIOT Vice-President, said: "It is entirely right and proper for Government to decide who pays tax and how it is paid. However, the Ministerial statement published today will almost certainly lead to yet more complex tax legislation to deal with the situation that Mr and Mrs Jones faced. Given the new Chancellor's stated commitment to making the tax system simpler, this would

be a backward step and one which we would like to avoid."

Both professional bodies are hoping that HM Treasury and HM Revenue & Customs will fully consult and listen to all interested parties before creating tax law that increases uncertainty further and puts yet more obstacles in the way of small businesses. The Government announced a review of small business taxation in 2004 and it would be much better to await the outcome of this review rather than rush through legislation. The professional bodies believe that there have been too many cases in the recent past where legislation introduced without proper consideration and consultation has ended up creating more problems than it solves.

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### Tax Advice Week 15 - 19 October 2007

The Chartered Institute of Taxation (CIOT) will hold its second Tax Advice Week during the week of 15 - 19 October 2007. The aim of the week is to raise awareness about the need for tax advice, even for those on low incomes and to further understanding of tax.

Next year, Tax Advice Week will be held in June and will begin on Monday 9 June 2008. The CIOT is moving the week from October to the summer because of the change to the filing deadline.

Rob Ellerby, CIOT President, said: "Tax Advice Week is a very busy time for our volunteers. This year will see several of our Branches holding technical seminars during the week. Some of the Branches are also involved in the educational project that the CIOT launched with Arsenal Football Club last year. With the filing deadline changing it was felt we had to move the week."

Tax Advice Week 2007 is sponsored by Interactive Data and Pure Recruitment.

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# Taxpayers' Charter should be 'Highway Code' to safeguard rights



A Taxpayers' Charter should be a highway code that safeguards the rights of the taxpayer.

Rob Ellerby, President of The Chartered Institute of Taxation (CIOT), said: "The Inland Revenue used to have

a charter for taxpayers. That dealt with service delivery. To make sure that a charter or code works it needs to be seen rather like the Highway Code: laying down guiding principles that secure our rights."

The CIOT believes that a

charter is no substitute for rights of taxpayers enshrined in statute. Rights of appeal, time limits, and protection against disclosure of confidential information or legal advice, etc, should always be given proper statutory form.

There are some more general broader rights for which a charter is the more suitable instrument. For example, you have the right to be believed in anything you tell the revenue authorities, unless there is evidence that what you are saying is not true; the revenue authorities should collect the right amount of tax, not necessarily the maximum amount of tax which could be levied; you have the right to be represented at a meeting with the revenue authorities by

a person of your choice.

Rob Ellerby adds: "There is a role for a Taxpayers' Charter alongside statutory guarantees. It is important that the charter or code has a clear basis in statute and is supported by all parties: taxpayers, Revenue officers and tax advisers."

Concerns over safeguards for taxpayers were recently raised in relation to the HM Revenue & Customs document "Payments, Repayments and Debt".

In the autumn, the CIOT will be launching a detailed study of how a Charter could work as well as recommending what a Charter should contain.

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Francesca Lagerberg, Chairman of the Technical Committee of the ICAEW Tax Faculty, said: "The Government is looking to review situations where family members are involved together in a business. It appears that the tax authorities will seek to separate out 'commercial' situations from those where it believes dividends are being passed to lower rate taxpayers primarily to keep down the tax bill. The reality is that most businesses do not fall into such neat categories. There is a danger that rushed legislation will result in unworkable legislation, plunging thousands of taxpayers into yet more uncertainty about their tax position. There is no 'quick fix' formula that we think could work. There is now an urgent need for full and detailed consideration of the small business tax regime, which should include a detailed understanding of the businesses and the issues involved and full consultation, which should be completed before any measures are announced."

Andrew Hubbard adds: "We can understand why the Government would want to review the structural basis of small business taxation. There are anomalies in the current system and we would support reforms that more closely linked taxation with the underlying economic activity rather than with the legal form of that activity. But it is difficult to see how there can be a proper and open debate and consultation if the outcome has been pre-determined."

Francesca Lagerberg concluded: "A clear signal should be sent to owner managed businesses that they are a valued part of the economy and that the tax goalposts will not shift every time a tax case goes against the tax authority. A full and open debate is required about how small businesses should be taxed and we would welcome a review that covered all aspects of this area without leaving hardworking individuals like Mr and Mrs Jones with years of concern about their future tax liabilities."

## Council Strategy Day 2007



CIOT Council Members, Management Board and observers: Front row, left to right: Roger Barnard, Rosalind Baxter (Head of Education), Rob Ellerby (President), Nick Goulding (Deputy President) and Vincent Oratore. Second row, left to right: Robert Moorhouse (Facilitator), Bianca Marsden (Head of Technical), Simon Goldie (Head of Communications), Jackie Horn (Development Officer), Patrick Stevens and Andrew Hubbard (Vice-President). Third row, left to right: John Roberts, Rosalind Upton, Anne Redston, Chris Brydone, John Beattie, Natalie Miller, Anthony Thomas and Bob Domett (Secretary-General). Fourth row, left to right: John Cullinane, Colin Ben-Nathan, Deborah Annells, Mohammed Amin and Penny Hamilton. Fifth row, left to right: Phillip Pearson (Head of Membership and Branches), Richard Geldard (ATT President), Nigel Eastaway, Philip Gillett, Elizabeth Filkin (Lay observer), Chris Jones, Stephen Coleclough and Jenny Nelder. Sixth row, left to right: Paul Morton, Robin Williamson (Technical Director, Low Incomes Tax Reform Group), Yvette Nunn and Jonathan Crump (Deputy Secretary). Seventh row, left to right: John Andrews, Stephen Hines (Head of Finance) and Peter Kempster.

## CIOT Officers 2007–2008



Rob Ellerby MA CTA (Fellow) FCA  
President

**Rob Ellerby** is Director of National Tax Training at Ernst & Young LLP, a position he has held since May 2000.

He joined the Council of The Chartered Institute of Taxation in 2001 and is immediate past Chairman of the Institute's Education Committee. He is well known to countless Members of the Institute, having prepared students for every sitting of the ATII examinations (as they then were) from May 1983 to May 2000 during his time at both Financial Training (1983 - 1993) and KPMG (1993 - 2000). As the past Chairman of the Institute's Conferences Working Party, he is also a familiar face at Cambridge and Nottingham and is proud to have played a lead role in organising the technical programme for the last 20 or so Members' Conferences (not to

mention the annual Finance Bill conference, various joint conferences between the CIOT and the now HMRC, and several Indirect Tax courses). He also sits on the sub-Committee responsible for the Advanced Diploma in International Taxation and is a member of the CTA Exam Review Working Party.

Rob is an avid music fan with an eclectic taste, as well as being a fanatical armchair sportsman. In addition to being a lifelong Ipswich Town supporter, he is also a member of the MCC. Rob and his wife Leonora live in Henley-on-Thames, two of their three children having left home and the youngest being in her third year at university.



Nick Goulding BSc CTA (Fellow) FCA  
Deputy President

**Nick Goulding** is a Senior Adviser at KPMG LLP in London, having been a partner from 1985 to 2005. He became a Member of the Institute in 1980 and began his involvement with Institute matters in 1989, initially as a Branch Committee member. He joined the Council of The Chartered Institute of Taxation in 2003. Nick is immediate Past Chairman of the Institute's Membership Committee. He is Chairman of the Stakeholder and Charitable Status Working Parties and is a former Chairman of the Wessex (now Hampshire) Branch of CIOT.

Having graduated from King's College, London in Physics and Chemistry, he decided to pursue a career in accountancy and qualified as a chartered accountant in 1972 and then joined Peat, Marwick, Mitchell & Co (now KPMG). After several years of auditing and a year's secondment to the Price Commission, he moved into the tax area in 1979 and later spent eight years as tax partner in KPMG's

Southampton office before returning to London. His main areas of practice now are partnership and private client tax related.

Nick has a keen interest in City of London matters and is a Liveryman and Member of the Court of the Worshipful Company of Tax Advisers and is currently Chairman of the Castle Baynard Ward Club. He is also a Governor of Lord Wandsworth College.

Having a life-long interest in aviation, he learned to fly as a member of the London University Air Squadron (RAFVR). Nick continued flying privately for over 20 years but now has hung up his flying helmet and settled for the very much slower pace of his narrowboat kept on the Kennet & Avon Canal.

Nick lives in Winchester with his wife Amanda who has recently been ordained as a Non Stipendary Minister.



Andrew Hubbard PhD CTA (Fellow) ATT  
Vice-President

**Andrew Hubbard** is a Chartered Tax Adviser and Past President of The Association of Taxation Technicians (ATT). As National Tax Technical Director of the Tenon Group, he specialises in the taxation of entrepreneurial businesses and their proprietors. Andrew is closely involved in the technical work of both CIOT and ATT and takes a particular interest in the taxation of smaller businesses. He is involved on a regular basis in discussions with HMRC and HM Treasury on the development of tax policy in the unquoted business sector. He is a regular lecturer and contributor to the professional press. His most recent publications include a guide to profit extraction from family companies, and a commentary on the new rules for the disclosure of tax avoidance schemes. In 2006 Andrew won LexisNexis Butterworths Tax Writer of the Year award.

Andrew has four children. The younger two are still at home (at least in theory!). His elder daughter is a PhD student at

Cambridge and his elder son is about to move to China to teach English and then set up his own business. His language skills came in very useful recently when a delegation of Chinese tax officials visited the Institute. Andrew is married to Marion who teaches Psychology at a school in Nottingham.

Andrew originally trained as a musician and still retains his musical interests. He plays the bassoon and contrabassoon in an orchestra in Derby and can sometimes be seen in front of the orchestra wielding a baton.

Andrew's other interests are cricket (from the comfort of the armchair only) and US politics. Don't get stuck in a corner with him otherwise you might find yourself listening to a complete history of every American election since George Washington: you have been warned!

## Around the Branches

### East Anglia Branch – Joint CIOT and STEP East Anglia Seminar

#### Inheritance Tax – Where We Are Now

Peter Legg and his topic of Inheritance Act attracted over 130 delegates to Dunston Hall Norwich on the 15 May for the annual joint meeting of the East Anglia Branch of CIOT and STEP. The usual strong attendance at East Anglia meetings was further bolstered by solicitors and other interested delegates, some of whom had difficulties finding somewhere to sit.

Peter's presentation was wide ranging, reminding us of the basics of the tax, which have been in place unaltered for decades, the changes introduced by the Finance Act 2006 and giving a steer on the way Inheritance Tax might go. He also managed to address the full spectrum of experience represented in the audience by reappraising the tax planning opportunities, which have always been available but which have in many cases fallen into disuse with the demise of the PET, except for absolute gifts.

Peter acknowledged that he had now been a poacher longer than a gamekeeper having left the Capital Taxes Office over 20 years ago, but was still able to call upon his experience at the CTO to reflect upon and identify where we are now, where we have been and where we may be going.

The fact that few if any left at the tea break was a testament to the success of the evening.

## CIOT welcomes Overseas Homes relaxation

Following on from the announcement in the March Budget, HMRC released draft legislation exempting individuals from a benefit in kind charge on their own overseas properties. This has been welcomed by The Chartered Institute of Taxation (CIOT).

John Whiting, Chairman of the CIOT's Management of Taxes Sub-Committee, said: "It is good to see HMRC carrying through their commitment to remove this unfair tax charge on people buying properties abroad. This follows a number of papers submitted and meetings held, driven by the CIOT, and others, highlighting the issue and making the case for the exemption. There are some aspects to discuss during consultation but the draft is a good starting point."

The UK tax legislation understandably contains rules that give a benefit in kind tax charge in most circumstances when an employer provides accommodation for an employee. These rules can technically catch the situation where UK individuals buy an overseas property through their own local company – something that is common in France and Spain and also in newer destinations such as Bulgaria. This is because the individuals are deemed to be directors of their overseas company and so provided with accommodation by it, even though they are normally providing all the funding for the property out of their own resources.

John Whiting continued: "Buying a property abroad is increasingly common and purchases are often made through a local company. There is no tax avoidance involved: typically it can be for local regulatory reasons. Given that the UK buyers have bought the property out of their own resources it is an odd and unfair result if a UK tax charge arises."

"It is also good to see that the new rules will be retrospective to 2003. Whilst HMRC have generally not collected tax in these situations, pending resolution of the issue, anyone who has paid a benefit in kind tax charge will be able to claim their money back."

## Members Offers:



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