



WELCOME

Welcome to the May 2026 edition of Tax E-News. We hope that you find this informative. Please contact us if you wish to discuss any matters in more detail.

RUSHTONS NEWSLETTER

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MAKING TAX DIGITAL FOR INCOME TAX IS NOW LIVE

Making Tax Digital (MTD) for Income Tax is now live – most self-employed individuals and landlords with turnover above £50,000 in 2024/25 were mandated into the regime from 6 April 2026.

Under MTD for Income Tax, individuals will keep digital records and send updates to HMRC every quarter using compatible software. This will require in-year record keeping, rather than everything being dealt with after the year ends. For those already mandated, the deadline for the first quarterly update in 2026/27 is 7 August 2026

While MTD is currently optional for many taxpayers, the next cohort of individuals will be mandated soon. If your qualifying income (turnover before expenses are deducted) from self-employment and/or property was over **£30,000 in the 2025/26 tax year**, you will be required to follow MTD for Income Tax from **6 April 2027**.

This change does not mean paying tax four times a year, but it does mean reporting more regularly. With time to prepare, choosing the right software and understanding what's required can make the transition smoother and help you stay in control of your tax affairs.

Please talk to us if you think you're likely to be mandated from April 2027 – we'd be happy to help!

LOANS TO PARTICIPATORS (COMPANY SHAREHOLDERS)

When a close company makes a loan to a participator (in most cases, this means a company's shareholder), and it is not repaid in the same accounting period, a corporation tax charge can arise. This is sometimes referred to as a 'Section 455' or 's.455' charge.

For loans advanced on or after 6 April 2026, the percentage charged increased to 35.75% (previously, this was 33.75%).

Where a loan to a participator is repaid, released, or written off within nine months of the end of the accounting period, relief from the s.455 tax charge can be claimed in the corporation tax return.

It is not possible to claim relief for anticipated future loan repayments. This means that company participators should take care to repay any outstanding participator loans before their company tax return is submitted. If repayments are made after a return has been submitted, let us know, so that an amended corporation tax return can be completed, and relief claimed, as appropriate.



ANOTHER BITE OF THE MARSHMALLOW!

In 2025, the Court of Appeal sent the case of Innovative Bites Ltd v HMRC to the First-tier Tribunal (FTT), telling them to determine whether 'Mega Marshmallows' are a "sweetened prepared food which is normally eaten with the fingers".

The VAT legislation zero-rates food, but this excludes "confectionery". Confectionery is defined as "any item of sweetened prepared food which is normally eaten with the fingers".

"Mega Marshmallows" are approximately 5cm in diameter and are primarily intended for roasting over fires and being used to make 's'mores'. In their March 2026 ruling, the FTT found that the product was more frequently eaten by non-finger methods than by with-finger methods. Mega-marshmallows are therefore not standard-rated confectionery items and can be zero-rated for VAT.

This means that currently, only standard-sized marshmallows are subject to VAT at 20%. Mini marshmallows, when held out for sale as a baking ingredient, are zero-rated along with their mega-sized counterparts!

This case demonstrates how complicated VAT can be - if you have any doubt about the VAT rate you should be applying to your products and services, please do get in touch.

WHAT QUALIFIES FOR CAPITAL ALLOWANCES?

In Orsted West of Duddon Sands (UK) Limited & Ors v HMRC, the Supreme Court considered whether major pre-construction costs could qualify for tax relief as capital allowances. The case arose from offshore wind projects where the companies spent significant amounts on environmental surveys, seabed studies and technical investigations before any turbines were built. The companies argued that these costs were an essential part of creating bespoke assets and should therefore attract tax relief. HMRC disagreed, and the Supreme Court ultimately sided with HMRC.

The Court's decision turned on a single statutory phrase: capital allowances are only available for expenditure incurred **"on the provision of plant or machinery."** The judges held that this wording requires a close and direct link to the physical asset itself. While the surveys were necessary to decide whether and how to build the windfarms, they were seen as preparatory. They put Orsted in a position to construct plant, but they were not part of providing the plant itself.



Although this case involved offshore windfarms, the lesson is far broader. Many businesses incur substantial costs before buying or building long-term assets: feasibility studies, design work, professional fees or regulatory assessments. After this decision, those costs are less likely to qualify for capital allowances unless they are tightly bound to the actual acquisition or installation of the asset.

When planning major investments, don't assume all upfront project costs will attract tax relief. Map costs carefully as they arise and separate genuinely asset-related spending from earlier feasibility or exploratory work. Getting that distinction right early can avoid unpleasant tax surprises later.

APRIL 2026 CHANGES TO THE CONSTRUCTION INDUSTRY SCHEME (CIS)

As outlined in Autumn Budget 2025, several changes took place on 6 April that may affect those who use the Construction Industry Scheme.

From April 2026, contractors are required by law to either:

- file a CIS return every month, including nil returns in months where they have not used a subcontractor; or
- inform HMRC in advance that they will not pay subcontractors that month by submitting an inactivity request.

From April 2026, with the nil filing requirement back in place, HMRC have reinstated a full CIS late filing penalty regime. If you file a late CIS return, a £100 fixed penalty will apply. You may also subsequently be charged:

- A second fixed penalty of £200 after two months.
- A tax-geared penalty at six months of a minimum of £300 or 5% of any liability which should have been shown on the return.
- A further tax-geared penalty at 12 months.
 - The amount of this penalty will depend on why the return was late.

In situations where a business makes or receives a payment they knew or should have known was connected to fraud, HMRC now have enhanced powers to immediately remove Gross Payment Status (GPS), assess for lost tax and charge a penalty of up to 30%. If GPS has been immediately removed, the time limit for reapplication is increased from one year to five years.



STAMP DUTY LAND TAX (SDLT): WHAT IS 'MIXED USE'?

When buying property in England, Stamp Duty Land Tax (SDLT) often represents a significant cost. One crucial distinction is whether a property is treated as purely residential or mixed-use. Mixed-use property includes both residential and non-residential elements, such as a house with farmland, commercial buildings, or genuinely non-residential land, and it is taxed at lower SDLT rates than residential property.

This makes mixed-use classification attractive, but it is also an area closely scrutinised by HMRC. That was highlighted in *HMRC v Christopher Brzezicki* [2026] UKUT 00125, a recent Upper Tribunal decision. Mr Brzezicki bought a large house together with a fishing stream and an island and claimed the purchase was mixed-use. While the First-tier Tribunal initially agreed, the Upper Tribunal overturned that decision and ruled that the entire property was residential, because the stream and island formed part of the house's "grounds" rather than being genuinely non-residential land. Although the stream bred trout naturally, it was not being run on a commercial basis when the property was purchased.

The case shows that even unusual features like streams or separate parcels of land will not automatically create mixed-use treatment. The key question is how the land is used and whether, in ordinary terms, it is part of the home.

Before relying on mixed-use SDLT rates, get clear advice. We will be happy to assist you in this area!

DIARY OF MAIN TAX EVENTS MAY/ JUNE 2026

Date	What's Due
1 May	Corporation Tax for year to 31/07/2025, unless quarterly instalments apply
19 May	PAYE & NIC deductions, and CIS return and tax, for month to 05/05/2026 (due 22 May if you pay electronically)
1 June	Corporation Tax for year to 31/08/2025, unless quarterly instalments apply
19 June	PAYE & NIC deductions, and CIS return and tax, for month to 05/06/2026 (due 22 June if you pay electronically)



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