

Welcome to the Branston Adams weekly round-up of the latest business news for our clients. Please contact us if you want to talk about how these updates affect your business. We are here to support you!

How safe is your LLP tax position?

The Supreme Court has put companies with Limited Liability Partnership (LLP) structures on notice that their business arrangements must comply with strict tax legislation.

Under LLP rules, members are generally treated as self-employed for income tax and national insurance contribution purposes. However, the salaried member rules, introduced in 2014, mean that members need to meet certain conditions to be able to benefit from this tax treatment.

In a notable recent court case, HMRC v BlueCrest Capital Management (UK) LLP, the Supreme Court upheld the Court of Appeal's decision that in assessing these conditions, only 'influence' deriving from legally enforceable rights and duties should be taken into account and not 'de facto' influence arising from other arrangements. This is a narrower interpretation of the rules than had previously been understood to be the case.

BlueCrest Capital Management, a hedge fund, had been challenging HMRC's attempts to tax dozens of its partners as employees but lost in the Supreme Court, and may owe some £200 million.

The decision could have repercussions for many professional services and investment firms that use the LLP business structure. Now is the time for LLPs to review their member agreements and governance frameworks.

How does the salaried member rules work?

The case hinged on one of three conditions that must be met for the salaried member rules to apply, that of 'influence'.

The three conditions that must all be met for the rules to apply are:

- Condition A: Broadly, at least 80% of the members' reward is 'disguised salary', i.e. fixed or variable, without regard to the overall profits of the LLP.
- Condition B: The mutual rights and duties of the members of the LLP do not give them 'significant influence' over the affairs of the LLP.
- Condition C: The member's capital contribution is less than 25% of their disguised salary.

While HMRC failed in two earlier tax tribunal cases, the Court of Appeal (CoA) set aside those decisions, finding the tribunals had erred in law in accepting the wider construction of 'influence' set out in HMRC's published guidance. In assessing

Condition B, only 'influence' deriving from legally enforceable rights and duties of members should be taken into account and not 'de facto' influence arising from other arrangements.

The Supreme Court says

The Supreme Court agreed with the lower courts that the BlueCrest members met Condition A, pointing out that the purpose of the condition is to distinguish between what is typical remuneration for a partner and a typical remuneration for an employee. Most of the BlueCrest partners' remuneration was 'disguised salary'. It did not reflect a share in the profits and losses of the partnership as a whole; it was referenced to the profits generated by the partners themselves or by their team.

Condition B – significant influence

The Supreme Court agreed that the Court of Appeal's narrower interpretation of Condition B was correct, and 'significant influence' concerned legally enforceable rights and duties of members under the LLP agreement. The court found that informal influence derived from members' strong performance, personal qualities or relationships is not relevant.

Significant influence over the affairs of the LLP requires influence, not control. 'Significant' means a degree of influence that has commercial substance in the conduct of the LLP's affairs and must be exercised over the partnership's business as a whole, not parts of it.

This suggests that a person could only have such influence if they have a voice in the management of the LLP's affairs, such as participating in or influencing high-level or strategic decisions. Day-to-day decision-making at a purely operational level is less likely to qualify, especially if that is only in relation to part of the business.

Do you need to reassess your Partnership Agreements? If you are unsure of your LLP structure and tax position, contact us. We'd be happy to help.

Can you stay afloat? The impact of flooding on UK firms

The Bank of England has produced a working paper examining the impact of flooding on businesses, identifying it as the UK's largest source of physical climate risk and costing the country an average of £2.2 billion annually.

Nearly one in ten UK business premises are located on floodplains, making them vulnerable to flood events that can damage assets, disrupt operations and strain local economies. As climate change increases the frequency and severity of extreme weather, understanding which firms are most exposed and how floods affect their performance is crucial for regional resilience and productivity.

Data and methodology

The Bank of England study used datasets linking business premises addresses in England and Wales to flood maps and firm-level financial records. The data spans the years 2011–2021 and covers 1.4 million firms and 1.7 million business premises.

The research identified which regions, sectors and types of firms are most exposed to flooding.

Concentrated exposure

Flood risk is not evenly distributed. Exposure is highest in specific regions (notably the North East and Cumbria) and in natural resource-intensive sectors such as Utilities and Agriculture. Larger business premises are significantly more likely to be located in medium to high-risk flood areas, often due to a search for cheaper land, which is frequently found in flood-prone zones.

Impact on company survival and performance

Flooding has severe consequences for UK firms:

- **Small and Medium Enterprises (SMEs):** Floods increase the likelihood of business termination by 32% for small firms and 43% for medium firms in the year of the event. Repeated flooding raises the risk even further for small firms.
- **Surviving firms:** Those that endure floods experience sharp declines in turnover, employment and total assets in the year of the event, with only partial recovery over the following three years. Large firms and those in natural resource sectors suffer the most significant losses.
- **Liquidity and credit:** For SMEs that survive, floods cause a modest but persistent deterioration in liquidity, mainly due to reduced inflows. There is limited use of credit for recovery, and collateralised borrowing drops about a year after the event, possibly due to tighter lending standards or reduced collateral values.

Aggregate economic impact

Direct flood effects have reduced annual UK corporate turnover by an average of 0.18% over the past 11 years, peaking at 0.9% in 2015. These figures likely underestimate the true economic cost, as they exclude second-round effects such as reduced consumption and investment.

Policy implications

Flood risk is heavily concentrated in regions and sectors critical to the UK economy. As climate change intensifies, the vulnerability of these areas could have broader implications for national productivity and resilience. Policymakers should prioritise targeted flood defences, support for SMEs, and strategies to mitigate the economic fallout from increasing flood events.

What can your company do?

As flooding poses a significant and growing threat to UK firms, especially SMEs and those in natural resource sectors, companies should assess the level of their risk.

1. Assess your specific risk: Identify your exact vulnerability by consulting local government tracking systems, such as checking postcode risk zones via the Environment Agency flood maps.
2. Register for early alerts: Companies and individuals can sign up for free for the government's automated flood warning services.
3. Draft a business continuity plan: Outline actionable emergency procedures, including lists of critical suppliers, staff contact details and production and IT recovery workflows.
4. Examine your insurance coverage: Review your business and premises insurance for flood damage and prolonged business interruption.
5. Shift critical assets higher: If your business is in an area prone to flood risk, move electrical sockets, servers, vital company documents and high-value inventory at least one metre above floor level. Store important data in off-site cloud backups.
6. Install physical property defences: In some circumstances, it may be possible to deploy property-level protection by fitting purpose-built flood doors, air-brick covers, and removable, standalone perimeter barriers.
7. Implement site drainage improvements: Reduce water runoff around the property by utilising permeable paving for car parks, installing green roofs and regularly clearing surrounding storm drains.
8. Plan for post-flood recovery: Develop a detailed post-flood cleanup and repair checklist. This should include procedures for safely removing contaminated water and protocols for safe equipment power-up.

The Bank of England report can be found here: <https://www.bankofengland.co.uk/working-paper/2026/staying-afloat-the-impact-of-flooding-on-uk-firms>

To check Scottish flood maps, see: <https://map.sepa.org.uk/floodmaps>

To check Northern Ireland flood maps, see: <https://www.nidirect.gov.uk/articles/check-risk-flooding-your-area>

To check Welsh flood maps, see: <https://naturalresources.wales/flooding/check-your-flood-risk-by-postcode/?lang=en>

To check England's flood maps, see: <https://flood-map-for-planning.service.gov.uk/>

Early adopters of AI see rising headcounts

New research out of the United States contradicts predictions that the introduction of Artificial Intelligence (AI) will drive job losses.

The working paper found that companies that adopted generative AI grew their headcount by 10.2% over the two years following adoption. This is in stark contrast

to comments from tech companies Oracle and Atlassian, which have cited AI investment when announcing layoffs.

Companies making the largest AI investments saw entry-level headcounts growing 12% over the two years following adoption.

Yet the research has several stipulations; this increase in headcount only applied to companies defined as 'high-intensity' adopters. Many of those companies that saw benefits were high-growth firms, usually larger, more engineering-intensive and more likely to be venture-backed.

The research defined 'high-intensity' companies as those in the top third of per-employee, per-month AI spend in the first three months. Usually, the spend was on multiple AI models, primarily the most advanced and productivity-enhancing systems, in areas like coding agents rather than simpler chat subscriptions.

Paradoxically, the spending in the top third of companies was fairly low, about \$30 per month, per employee and then increasing.

The study also found that increased employment did not happen immediately. There was generally a six to 12-month hiatus before increases, partly because it took time for AI best practice to filter across the organisation.

The working paper, 'A New Look at AI's Impact on Jobs,' used company-level spending data from US tech start-ups Ramp and Revelio Labs. Ramp joined with workforce data collected by Revelio Labs for more than 21,000 U.S. firms.

The research paper can be found here: <https://ramp.com/data/ai-jobs-impact/paper>

UK hiring trends

The June 'UK Report on Jobs' shows subdued business confidence driving a preference for short-term staff. Temporary staff billings rose at the steepest rate in over three years, while permanent staff appointments continued to decline, although at a much slower pace than in May.

Overall demand for staff weakened at a quicker rate, largely reflecting a steeper reduction in permanent job vacancies. At the same time, an increase in redundancies contributed to a further marked increase in candidate availability. Despite this, pay trends improved, with employers raising starting salaries and wages at a faster rate as they sought to attract and secure candidates with sought-after skills.

The KPMG and REC, 'UK Report on Jobs' is compiled by S&P Global from responses to questionnaires sent to a panel of around 400 UK recruitment and employment consultancies.

The latest survey data showed that the number of people placed into permanent positions fell at a marginal pace - the softest in three months, while temp billings rose at the quickest rate since April 2023. These trends were often linked to wider

economic uncertainty and cost considerations, which have driven a greater preference for short-term staff and projects.

UK recruitment consultancies signalled further increases in the rates of starting pay for both permanent and temporary workers at the end of the second quarter as efforts to attract top talent had placed upward pressure on pay offers.

Nursing/medical/care and engineering were the only two monitored sectors to see improvements in demand for permanent staff in June. Retail, meanwhile, posted the sharpest reduction in permanent vacancies.

Temp vacancies rose sharply in the blue-collar sector and solidly in the engineering sector. Of the eight other monitored areas that posted a reduction in temp staff demand, the most dramatic falls were seen in the Retail, Nursing/Medical/Care and Executive/Professional categories.

Proposed offence for reckless, untrue tax statements

HMRC have proposed a new criminal offence for making reckless, untrue statements or declarations about what's known as 'direct taxes' - Income Tax, National Insurance and the like. For Customs and Excise and VAT ('indirect taxes'), it is already possible to prosecute individuals who make untrue statements or submit incorrect documents either knowingly or recklessly, without the need to prove dishonesty. The penalties for such offences can be severe, including substantial fines and imprisonment. The direct tax regime does not currently contain an equivalent offence.

It is proposed that the offence would carry a custodial sentence and/or a fine on indictment, to be decided by the courts. Consideration is being given to following the Customs and Excise rules, which include a maximum sentence of two years and unlimited fines. This differs from the provisions for VAT rules, which provide for a potential custodial sentence of up to 14 years.

HMRC are looking for views on the proposals, which include examples of what they consider to be reckless errors. These proposals include:

- Making a significant relief claim without reading the relevant guidance properly or seeking advice or clarification on the basis that it will 'probably be fine'.
- A self-employed taxpayer who prepares their own tax return knows they have multiple bank accounts and suspects they have received taxable income therein. They do not check the statements and estimate income for the main account only, omitting income from secondary accounts. They unintentionally file a materially inaccurate tax return.

The document does make the point that carelessness would not be caught in this net, and 'deliberate behaviour' would be covered by existing penalty legislation.

The consultation can be found at <https://www.gov.uk/government/consultations/proposed-offence-for-reckless->

New proposals to tackle Electronic Sales Suppression

The government is consulting on potential measures that target Electronic Sales Suppression (ESS). Proposals include the introduction of new software standards for Point of Sale systems. Electronic Sales Suppression (ESS) involves businesses using software or devices to manipulate Electronic Point of Sale (EPOS) systems to hide transactions and evade tax.

While precise quantitative prevalence statistics are inherently difficult to capture for hidden fraud, ESS has been regarded by HMRC as a growing area of tax evasion.

HMRC have identified that certain individuals and businesses in Electronic Point of Sale (EPOS)/Mobile Point of Sale (MPOS) supply chains are developing or modifying POS systems to suppress sales to facilitate tax evasion. HMRC believe that ESS is more prevalent in small retail, takeaway and hospitality businesses.

The government is proposing to introduce software standards for the EPOS and MPOS sector, consisting of a set of uniform rules, protocols and compliance requirements to ensure that every system records sales and financial data accurately, securely and in a way that cannot be easily tampered with or manipulated.

The proposed measures include requiring an unalterable and complete transaction log that contains details of every individual transaction and adjustment, indelibly linked together in an encrypted chain using the Standard Audit File for Tax (SAF-T) format to store sales records.

The government would also establish a register of EPOS/MPOS systems sold, transferred, or used in the UK. A certification system would show whether the software complies with the new standards. It would also make it compulsory for small retail, takeaway and hospitality sectors to use compliant EPOS/MPOS systems to record all sales.