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TAX MATTERS

May 2019
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New tax year, new tax rules: are you up-to-date?

The start of the new tax year brought significant changes to legislation. It is also P11D season: these need to be completed soon.

Increasing minimum wage

From April 2019, the National Minimum Wage (NMW) and the National Living Wage (NLW) rates increased.

From 1 April 2019, the hourly rates of pay are as follows:

Age	NMW/NLW rate
Apprentices*	£3.90
16 and 17	£4.35
18 - 20	£6.15
21 - 24	£7.70
NLW - 25 and over	£8.21

**Under 19, or 19 and over in the first year of their apprenticeship*

In the 2019 Spring Statement, Chancellor Philip Hammond announced that Professor Arindrajit Dube will undertake a review of the latest international evidence on the impact of minimum wages, to inform future NLW policy after 2020.

Payslip updates

From 6 April 2019, changes to payslips take effect. All workers have the right to a payslip, no matter whether they are employees with a regular monthly salary or workers on a variable or zero-hour contract. In addition, more information needs to be shown on the payslip, including the number of hours a person has worked; the type of work they have done; and the rate of pay for the different types of work they do.

Don't forget, P60 forms, which summarise the pay for the year, need to be issued to employees by 31 May 2019.

P11D season

You should start preparing to file your forms P11D for the tax year 2018/19. These need to be filed by 6 July 2019, and the Class 1A national insurance contributions (NICs) payable need to be paid by 19 July, or 22 July if you pay online. Late filing and payment will incur a penalty and interest, respectively.

Payrolled benefits-in-kind (BIK) do not need to be reported on forms P11D, although Class 1A NICs are reportable via form P11Db and payable as detailed above. If you decide you want to payroll BIK in the future, you need to register online by the 5 April before the start of the new tax year for which you will be payrolling.

Changes to car, van and charging point benefits

Out of all the BIK available, company cars can be one of the more complicated ones to understand. Here we outline some of the increases to benefits that you need to be aware of.

Cars – a BIK charge is based on the list price of the vehicle, multiplied by a percentage linked to the car's CO_2 emissions. These percentages have increased by 3% for 2019/20. The supplement for diesel cars remains at 4%. This applies to all diesel cars (unless the car is registered on or after 1 September 2017 and meets the Euro 6d emissions standard), but the maximum is capped at 37%. There is no change to the current position that the diesel supplement does not apply to hybrid cars.

The fuel benefit charge multiplier for a car is £24,100 in 2019/20 (£23,400 in 2018/19).

Vans – there have been increases in the benefit charge and the fuel benefit charge. For 2019/20, the flat rate for private use of a van is £3,430 (£3,350 in 2018/19). The van fuel benefit is £655 in 2019/20 (£633 in 2018/19). No BIK arises where the 'restricted private use' condition is met.

Charging electric cars – employees who charge their own vehicles using an employer-provided charging point do not incur a BIK charge from 6 April 2018, and therefore this does not need reporting on forms P11D. Employees provided with a purely electric company car can be paid 4p per mile for business journeys.

If you require further help in regard to payroll, reporting benefits-in-kind or submitting P11Ds, please contact us.

Reviewing the changes to pensions auto-enrolment

From 6 April 2019, minimum employer and total contributions into pension schemes rose. Here, we review these changes, and analyse the pensions auto-enrolment scheme in greater detail.

Auto-enrolment: an overview

Under the pensions auto-enrolment scheme, employers must automatically enrol eligible workers into a qualifying pension scheme. Employers' duties include assessing the types of workers in their business; providing a qualifying auto-enrolment pension scheme for workers; paying employer contributions; reassessing the workforce; and completing the declaration of compliance once every three years.

Under auto-enrolment, there are three categories of worker: entitled workers; eligible jobholders; and non-eligible jobholders. To qualify as an eligible jobholder, a worker must be aged between 22 years and the State Pension age; meet the minimum earnings threshold of £10,000; work or ordinarily work in the UK; and not already be part of a qualifying pension scheme. Most workers fall into the eligible jobholders category. These workers are entitled to auto-enrolment pension contributions from the first day of their employment, or on meeting the age and earnings qualifications. It may be possible to delay assessment for individual workers for up to three months, under 'postponement', however timely communication with the worker on this issue is vital.

Non-eligible jobholders are able to opt-in and join the auto-enrolment pension scheme and are then eligible for contributions on the same terms as eligible jobholders, including entitlement to employer pension contributions. Meanwhile, entitled workers have the right to join a pension scheme. However, for this type of worker, employers are not required to pay employer contributions.

Rising contributions and fines

On 6 April 2019, employer minimum contributions rose from 2% to 3%. The total minimum contribution also increased from 5% to 8%. Employers are required to make at least the minimum contribution, and employees must make up the difference.

Since the introduction of pensions auto-enrolment in 2012, regulatory body the Pensions Regulator (TPR) has handed out a significant number of fines.

The number of fines handed out rose considerably when auto-enrolment was rolled out to include small employers. Since 2017, small firms with fewer than 50 employees have been required to comply with auto-enrolment. Penalties for non-compliance range from fixed penalty fines of £400 to daily escalating penalties of between £50 and £10,000, depending on the number of employees a business has.

Employers must ensure they are fully compliant with the auto-enrolment regulations. Detailed guidance can be found on TPR's website: **https://bit.ly/2DL3YGv**.

Contact us to ensure you are compliant with auto-enrolment.

Disposing of a business? Make sure to claim reliefs

Entrepreneurs' Relief (ER) is a valuable tax relief for individuals seeking to dispose of their business. It can give access to a 10% rate of capital gains tax (CGT), subject to a £10 million lifetime limit. ER is potentially available to company shareholders, trustees, and owners of, or partners in, unincorporated businesses.

However, important new conditions have recently been added – are you up-to-date?

A look at the new ownership period

Ownership conditions apply throughout the period up to the date of disposal. The 2018 Autumn Budget brought changes affecting all business owners and shareholders looking to claim ER. For disposals on or after 6 April 2019, the necessary qualifying period of ownership is extended, becoming two years, rather than one.

'Personal companies' – a definition

New rules have been published on exactly what constitutes a 'personal company'. Under these rules, an individual must, throughout the relevant qualifying period:

- be a company employee or office holder
- hold at least 5% of the company's ordinary share capital
- be able to exercise at least 5% of the voting rights; and
- satisfy either the distribution test or the proceeds test.

Note that for trustees who are company shareholders, the qualifying beneficiary of the trust must (had they owned the shares personally) fulfil these criteria, and pass either the distribution or the proceeds test.

Analysing the distribution test

For disposals made on or after 29 October 2018, the 2018 Autumn Budget introduced the requirement that an individual must satisfy the distribution test. By virtue of their holding, an individual must be entitled to at least 5% of the company's profits available for distribution to 'equity holders', and 5% of the assets available for distribution to equity holders in a winding up. Note that the basis is profits available to equity holders, rather than shareholders: this has a wider impact.

Unfortunately, this could impact companies genuinely issuing different classes of shares – sometimes known as 'alphabet' shares – to different shareholders. As different classes of shares have different rights, alphabet shareholders may not meet the distribution test, especially if those shares are not pari passu.

Examining the proceeds test

To address this, the government introduced an alternative test, based on proceeds on disposal.

For disposals made on or after 29 October 2018, the individual must, in the event of a disposal of the whole of the ordinary share capital of the company, be beneficially entitled to at least 5% of the proceeds. Here, the 5% threshold is computed by reference to the market value of the company at the end of the qualifying period. This could mean – in situations where the new distribution tests are not met – that it would not be apparent whether ER will be available until shares are actually disposed of.

Check your eligibility now

These changes will impact many claims for ER, and we advise that you review your eligibility for ER now. If your current shareholding fails to qualify under the distribution test, and may not qualify under the proceeds test, your qualifying ownership period has ended. To reactivate eligibility for ER, action to change shareholding will be required.

To discuss whether you need to act to ensure ER will be available on any future disposal, please get in touch.

Making Tax Digital for VAT: are you compliant?

Making Tax Digital for VAT (MTD for VAT) is now live. Businesses with a taxable turnover above the £85,000 VAT registration threshold come within the new rules, and must comply with the initiative or face enforcement action. Here, we answer some of your key MTD for VAT questions.

Q: Does my business have to do anything to get into MTD for VAT?

A: Yes. A business actually has to sign up to MTD for VAT. To do this, you need your Government Gateway user ID and password, and VAT registration number. HMRC should confirm, by email, that your sign-up has been successful. Alternatively, we can sign up for you.

Q: Do all VAT-registered businesses start at once?

A: Each business has its own start date, dependent on its VAT quarters. If your taxable turnover is above £85,000, MTD for VAT rules are compulsory for your first VAT return period starting on or after 1 April 2019. If your turnover is below the VAT registration limit, you don't have to enter MTD for VAT, and you can carry on filing as you do at present. But if you prefer, you can join MTD for VAT voluntarily.

The only exceptions are for businesses in the deferrals category (see below). These adopt MTD for VAT rules for their first VAT return period starting on or after 1 October 2019.

Q: Which businesses are subject to the deferral?

A: These are businesses that are: part of a VAT group or VAT division; based overseas; trusts; not-for-profit organisations not set up as a company; local authorities; public corporations; those making payments on account; annual accounting scheme users; and those using the VAT GIANT service. These businesses should have received written notification of their deferral status from HMRC.

Q: Can my business leave MTD for VAT if turnover falls?

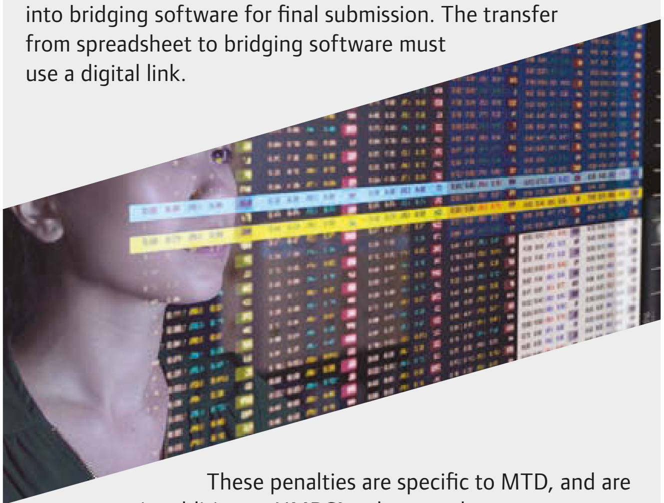
A: Once a business is in MTD for VAT because turnover is over the taxable limit, it stays within MTD for VAT – even if turnover subsequently falls below the limit. The obligation to keep digital records and file VAT returns with MTD-compatible software continues. Only if the business qualifies for exemption or deregisters from VAT do the MTD for VAT rules cease to apply.

Q: Are there penalties for getting MTD for VAT wrong?

A: MTD for VAT is backed up by a system of penalties. For the first year, however, HMRC intends to take a slightly more lenient approach on penalties for the issue of digital links between software products. Businesses are given until at least 31 March 2020 to have digital links in place between software products.

HMRC refers to this as a 'soft landing' penalty period. During this period, businesses will not be required to have digital links between programs, meaning 'cut-and-paste' will continue to be an acceptable way to transfer information as a digital link to HMRC. For businesses in the deferral group, the soft landing penalty timetable is adapted to give them 12 months to become fully compliant in putting digital links into place.

However, there is an important exception to this. Where VAT return information is transferred out of the accounting records into a separate program for submission to HMRC via the Application Programming Interface (API), the transfer must be digital. This would apply, for example, where figures for the VAT return are collated in a spreadsheet and then transferred into bridging software for final submission. The transfer from spreadsheet to bridging software must use a digital link.



These penalties are specific to MTD, and are in addition to HMRC's other penalty powers.

The VAT default surcharge regime will continue to operate until at least April 2021, and is outside the scope of the 'soft landing' for MTD for VAT. It is anticipated that from April 2021, there will be a new scheme based on penalty 'points' for late VAT return submission and late VAT payment.

Please do not hesitate to contact us for further advice.

Tax Round-up

HMRC urges couples to claim Marriage Allowance

HMRC has urged 700,000 couples to claim the Marriage Allowance in order to save tax.

Introduced in April 2015, the Marriage Allowance enables spouses to transfer a fixed amount of their personal allowance (PA) to their partner. The option is available to couples where neither pays tax at the higher or additional rate. If eligible, one partner will be able to transfer 10% of their PA to the other partner. In 2019/20, taxpayers are able to transfer £1,250 (compared to £1,190 for the 2018/19 tax year).

For those couples where one person does not use all of their PA, the benefit will be up to £250 in 2019/20 (20% of £1,250).

Commenting on the allowance, Mel Stride, Financial Secretary to the Treasury, said: 'It is encouraging to see so many people taking advantage of the tax relief.

'Married couples who are yet to sign up for this great scheme – you too can benefit – it is quick to register, and any backdated allowances will be paid as a lump sum.'

The Marriage Allowance is available throughout the UK: to qualify, the higher earning partner must pay tax at the basic rate (in Scotland that includes the starter, basic or intermediate rate).

Data reveals parents 'failing to make use of Tax-Free Childcare'

According to data published by the government, its Tax-Free Childcare (TFC) scheme 'has not had the uptake expected', with only 22% of eligible families making use of it.

Official figures have suggested that the government had planned and budgeted for 415,000 families to be using the TFC scheme by October 2017. However, the data has revealed that, by December 2018, only 91,000 families had signed up to the scheme.

The TFC initiative replaced the Employer Supported Childcare (ESC) scheme, which closed to new entrants on 4 October 2018. TFC is available to both employed and self-employed individuals, and is paid per child rather than per parent, allowing single parents to benefit.

Under the initiative, tax relief of up to 20% is available for childcare costs, up to a total of £10,000. The scheme is therefore worth a maximum of £2,000 per child (£4,000 for a disabled child). Children aged under 12 are eligible for the scheme, as well as disabled children aged up to 17.

Previously, the full roll-out of the TFC scheme was delayed as a result of technical difficulties with the government's Childcare Choices website. These glitches may have contributed to the low uptake of the scheme, the government stated.

Julia Waltham, Head of Policy and Campaigns at non-profit organisation Working Families, said: 'The reason for the low take-up of TFC could be because parents have chosen to stick with ESC vouchers, and we know from our own research that working parents are increasingly reliant on informal childcare support from family, often grandparents.'

The Childcare Choices website can be accessed at **www.childcarechoices.gov.uk**.

Tax Tip

Make sure your Will is up-to-date

A Will can be a powerful planning tool. Individuals are advised to review their Will regularly, to ensure any changes in their family and financial circumstances are reflected, and also to take into account any changes in tax law.

Wills can also be re-written by others within two years after your death, in the event that changes are agreed by all concerned to be appropriate.

We can help you in keeping your Will up-to-date, and can assist you in making the most of any estate planning tax breaks. Please contact us for more information.

Reminders for your diary

May 2019

3 Deadline for submitting P46(Car) for employees whose car/fuel benefits changed during the quarter to 5 April 2019.

19 PAYE, Student loan and CIS deductions are due for the month to 5 May 2019.

31 Deadline for forms P60 for 2018/19 to be issued to employees.

June 2019

1 New Advisory Fuel Rates (AFR) for company car users apply from today.

7 Deadline to file first monthly VAT return under the new MTD rules for the month ending 30 April 2019.

19 PAYE, Student loan and CIS deductions are due for the month to 5 June 2019.

30 End of CT61 quarterly period.

July 2019

5 Deadline for reaching a PAYE Settlement Agreement for 2018/19.

6 Deadline for forms P11D and P11D(b) for 2018/19 to be submitted to HMRC and copies to be issued to employees concerned.

Deadline for employers to report share incentives for 2018/19.

14 Due date for income tax for the CT61 period to 30 June 2019.

19 Class 1A NICs due for 2018/19.

PAYE, Student loan and CIS deductions due for the month to 5 July 2019.

PAYE quarterly payments are due for small employers for the pay periods 6 April 2019 to 5 July 2019.

31 Second payment on account 2018/19 due.