

TAX BRIEFING

FEBRUARY 2020

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CHARTERED ACCOUNTANTS



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PAY CAPITAL GAINS TAX IN 30 DAYS

If you are planning to sell a residential property this year be prepared to pay any capital gains tax (CGT) due within 30 days of the completion date.

CGT has normally been payable by 31 January after the end of the tax year in which the contracts are exchanged but for residential sales exchanged on or after 6 April 2020 any CGT due will be payable within 30 days of the completion date.

CGT arising on the disposal of assets other than homes will continue to be payable on 31 January where the seller is a UK resident individual or trustee. There are different rules for individuals who live overseas and for corporate sellers.

As well as paying the CGT due you will have to complete a new online CGT return to report the sale within 30 days. We can submit this on your behalf. This is required in addition to your self assessment tax return which will have to be completed as normal by 31 January for the previous tax year.

If no CGT is payable on the disposal (for example because the gain is fully covered by the private residence exemption or losses or the annual CGT exemption) then you

do not have to file the online CGT return.

In effect you will have to report gains from the sale of residential property twice; first on the online CGT return and then on your self assessment tax return unless, unusually, the self assessment return for the period is submitted first. There will be penalties for failing to complete either tax return on time so please tell us as soon as you have agreed to sell a residential property.

OFF-PAYROLL WORKING RULES

The application of the IR35 rules is due to change for many contracts performed in private sector organisations from 6 April 2020 where the contractor offers their services through their own personal service company (PSC).

Contractors working for public sector organisations have been subject to these rules for over two years. In HMRC's view all workers should be paid via the payroll, hence the tag 'off-payroll'. However contractors and their clients are currently free to agree any working relationship which suits them.

From April 2020 the end-client for whom the work is performed must determine whether IR35 applies to each contract. If the IR35 tests do bite, the contractor is treated as a deemed employee of the client and PAYE and employee's NIC must be deducted from the amount invoiced by the PSC. The worker is not entitled to any employment rights although they are effectively taxed as an employee.

Where PAYE and NIC are deducted from the invoiced amount,

the contractor does not have any further corporation tax or income tax liabilities on that income. Any VAT charged is still collected and paid to HMRC on the full value of the invoice.

Contractors working for small private sector clients are not affected. 'Small' in this case generally means not big enough to require an audit. The records at Companies House can tell you whether the company is audited and we can help you make that judgement in marginal cases.

The new rules will only apply for private sector contracts where services are performed on or after 6 April 2020 and payment for those services is made on or after that date.





NEW NIC THRESHOLDS

The NIC rates and thresholds have been announced in advance of the Budget on 11 March to allow time for software providers to programme this information into their payroll packages for 2020-21. There is no change to the rates of Class 1 NIC as the Conservative Party pledged not to increase the rates of income tax, NIC or VAT. However the weekly amounts of Class 2 and Class 3 NIC will increase to £3.05 and £15.30 respectively.

Class 1 NIC thresholds 2020-21

Pay period	Lower earnings limit Class 1	Small earnings threshold Class 2	Employee Class 1 and Class 4	Employer Class 1	Upper earnings limit Class 1 and Class 4
Monthly	£520		£792	£732	£4,167
Annual	£6,240	£6,475	£9,500	£8,788	£50,000

We will have to wait until the Budget to learn how the income tax thresholds will be drawn but it is widely assumed that the 40% threshold will remain at £50,000 and the personal allowance will remain at £12,500. Different income tax thresholds have already been announced for Scottish residents.

A director who wishes to take a salary from their company without paying NIC should be aware that the company will pay Class 1 NIC at 13.8% on their salary above £732 per month (£8,788 per year) although the director will not pay employee's Class 1 NIC until their salary reaches £9,500 pa. If the company qualifies for the employment allowance (see below) up to £3,000 of employer's Class 1 NIC is covered by that allowance and is deducted from the total NIC bill payable to HMRC.

A director who is also a shareholder of their company will often extract further cash as dividends using the £2,000 dividend allowance and the lower dividend tax rates of 7.5% and 32.5% to minimise their tax bill. However we cannot assume that the dividend allowance will remain at £2,000 nor that the dividend tax rates will not increase in 2020-21.

RESTRICTED EMPLOYMENT ALLOWANCE

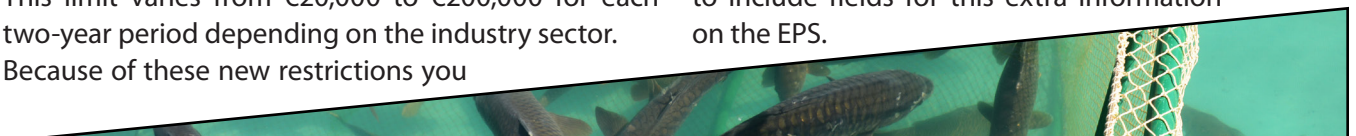
The employment allowance is currently worth up to £3,000 per year but can only be claimed by companies with at least one employee other than the sole director. From April 2020 the allowance will also be restricted to employers whose Class 1 NIC liability was less than £100,000 in 2019-20. This cap is the sum total of all employer Class 1 NIC liabilities across the group of connected companies or across all payrolls run by that company or group.

A further complication from April 2020 is that the employment allowance will count as *de minimis* state aid which has an upper limit permitted for each business. This limit varies from €20,000 to €200,000 for each two-year period depending on the industry sector. Because of these new restrictions you

will need to make a fresh claim for the employment allowance for 2020-21 on the EPS form and you will need to know:

- which trade sector your business operates in (agriculture, fisheries and aquaculture, road freight transport or industrial/other);
- the amount of state aid your business has received or anticipates to receive in the years 2018-19 to 2020-21; and
- whether the amount of Class 1 employer's NIC paid for 2019-20 was £100,000 or more.

Your payroll software should be updated for 2020-21 to include fields for this extra information on the EPS.





CORPORATION TAX PENALTIES

Even if your business is in spin you should not neglect your company's accounts and tax returns as late filing and late payment of corporation tax could result in huge penalties.

Although the deadline for filing the corporation tax return is one year after the end of the accounting period, the corporation tax bill is payable nine months and one day after the end of the period.

For example, the accounts of Property Ltd for the year to 30 June 2018 must be filed alongside its corporation tax return by 30 June 2019 but the corporation tax for the year to 30 June 2018 must be paid by 1 April 2019.

If you forget to pay the tax and file the corporation tax return more than six months late, HMRC will issue a penalty of 10% of the unpaid tax plus £200 for being more than three months late. A further 10% of the unpaid tax will be charged if the corporation tax return and payment are 12 months late.

Example

Property Ltd has corporation tax of £300,000 to pay for the year to 30 June 2018. It has not filed its corporation tax return for that period by 30 June 2020 and nor has it paid its corporation tax. HMRC will charge a penalty of £60,000 (2 x 10% x £300,000) plus £200 for being over three months late with the corporation tax return.

If Property Ltd had paid its corporation tax bill by 1 April 2019 the penalties charged in 2020 would be restricted to £200.

LOAN CHARGE ACTION

If you received loans in place of your salary and did not fully repay those loans before 5 April 2019 you may be liable to pay PAYE and NIC on the outstanding amounts as if they were paid as salary on 5 April 2019.

This tax is known as the loan charge and it has been viewed as deeply unfair, especially for people who did not realise that they had received loans.

Following an independent review of the loan charge in late 2019 the rules were changed with retrospective effect. The loan charge will no longer be due on:

- loans taken out before 9 December 2010; and
- loans taken out between 10 December 2010 and 5 April 2016 where the loan scheme was fully disclosed on tax returns and HMRC failed to act on that disclosure.

If your tax returns for these years are under investigation or you are negotiating a settlement to pay the tax, those tax collection procedures will continue with a recalculation of the tax due.

Loans paid in place of salaries on or after 6 April 2016 and which were outstanding on 5 April 2019 remain subject to the loan charge.

HMRC have granted those affected a further eight months to submit their 2018-19 returns

Where the loan charge was due you were required to declare it on your income tax return for 2018-19. As the announcement of the amended scope of the loan charge was not made until

20 December 2019, HMRC have granted those affected a further eight months (until September 2020) to submit their 2018-19 returns and pay the tax due.

If you have already submitted your 2018-19 tax return you can amend it to reduce the amount subject to the loan charge and spread the charge over three tax years: 2018-19 to 2020-21. This may mean the loans do not push your total income into the higher tax bands for those tax years.

We can help you recalculate your loan charge liability and assist in negotiating a payment schedule with HMRC.





VAT ON LETTING LAND

Letting land and property is normally exempt from VAT unless the landlord of a non-residential building has opted to tax the property, so VAT is charged at 20%. New commercial buildings also carry VAT at 20%.

When an exhibitor pays for a pitch at an exhibition hall he is usually buying a selection of non-land benefits such as security, advertising and the right to trade. The total package should be subject to VAT even if the letting of the bare land would be exempt.

There are several other exemptions for letting land where VAT should be charged if the business is VAT registered such as hiring a box at a sporting event, pitches at camp sites and hotel accommodation.

If you are letting land as part of any other deal, discuss the VAT implications with us first

Wedding venues can also get in a muddle over VAT as letting the room will normally be part of a wedding package including refreshments and other services.

Where the hiring of the room or pitch includes other services, be careful to check whether the entire package should be subject to VAT at 20%. For example,

If you are letting land as part of any other deal, discuss the VAT implications with us first.

ENTREPRENEURS' RELIEF ON THE WATCH LIST

The long-awaited Budget on 11 March could signal the end of various tax reliefs viewed as only benefiting the rich.

These include entrepreneurs' relief (ER) which reduces the tax payable on the disposal of a business to 10% on up to £10m of gains. This helps those who have already made a tidy sum from the sale, not those struggling to get a business off the ground.

assets and still be eligible for 10% CGT. But all the conditions for ER must be met for at least 24 months up to the date trade ceased. This may not be an obvious date so you need to pin down exactly when you stopped attempting to make sales through your business.

If you are counting on paying 10% capital gains tax (CGT) on the cash pile in your company you may need to move fast to secure the relief before it is abolished or restricted.

Only shareholders who held at least 5% of the ordinary share capital for the full 24-month period will qualify for ER, so check when shares were transferred or acquired.

Under the current ER rules you have three years after trading has ceased to liquidate the company or sell the

We can help you check that all the other ER conditions are met.

TAX DEMANDED FOR EARLIER YEARS

HMRC can correct income tax returns for obvious errors or omissions within nine months of the submission date.

You should be informed of any changes to the tax calculated on your return and given 30 days to object, otherwise the adjustment stands. If HMRC miss this nine-month window they can only change the amount of tax due if they open an enquiry or discover an error made by you or your adviser.

calculations made by the HMRC computer for those years and not to errors on the part of the taxpayer.

If you receive a tax demand out of the blue relating to a tax return for 2016-17 or 2017-18, ask us to check it immediately. If HMRC have waited too long to demand the extra tax it may not be legally payable.

HMRC have been using their power to correct tax returns for 2016-17 and 2017-18 more than nine months after they were submitted. The corrections relate to incorrect tax

Regulated by The Institute of Chartered Accountants of Scotland.