Spring 2018

Newsletter

Welcome to our Spring 2018 Newsletter.

It's been another busy year for the UK, from a political, business and financial perspective. We're now on the home straight to leaving the European Union on 29th March 2019, with no one quite knowing what that will entail. We are still very closely monitoring our progress to Brexit and will update you with any relevant information as it becomes available.

This Newsletter is definitely the longest yet, with us trying, as ever, to include as much as we can that may of be relevant to our clients. I think you will agree that the volume of information shows that the Governments plan for 'simplifying tax', is still very much a work in progress. There are a large number and variety of topics covered, some in more detail than others, and we hope you will find the contents useful, as well as interesting and informative.

On a personal note, we have been very fortunate to have had another good year, with nearly all of our new clients coming to us by recommendation, which is very pleasing for us. Laura and I still try to ensure the office is manned during office hours, however, with a family run practice, this can't always be managed. Some of you may have spoken to our latest recruit, our daughter, when she helps in the office answering the phone, filing, scanning etc., with our son now becoming a dab hand at shredding!

The Chancellor Philip Hammond presented his first Spring Statement on Tuesday 13 March 2018.

In his speech he provided an update on the economy and responded to the Office for Budget Responsibility forecasts. In addition, he launched consultations on various aspects of the tax system.

In this publication we concentrate on the tax consultations that were announced either at Spring Statement or in recent weeks. We are also taking this opportunity to remind you of tax changes which take effect for 2018/19.

Changes to the Timing of Tax Legislation:

Chancellor Philip Hammond has implemented some fundamental changes to the UK fiscal timetable.

In the 2016 Autumn Statement, the Chancellor announced that he would be introducing a new Budget timetable, which would see the main annual Budget moving from its traditional spring setting to the autumn and the Autumn Statement being replaced by a Spring Statement. The first Autumn Budget was presented in November 2017.

The New Process:

While the general process of developing tax policy will remain the same, the timescales for policy making and consultation have changed significantly. The government hopes that the new system will allow more time to scrutinise and consult on draft tax legislation before it is introduced.

The new timing of the Autumn Budget will allow the announcement of most new measures well in advance of the tax year in which they are due to take effect. The Spring Statement also offers the opportunity for the government to consult during the early stages of policy making, and publish calls for evidence on long-term tax policy issues.

Under the new system, measures announced in the Autumn Budget will generally be consulted on during the winter and spring, with draft legislation being published in the summer, ahead of the introduction of the Finance Bill in the winter. This will then receive Royal Assent the following spring.

Income Tax Rates:

The basic personal allowance will increase from £11,500 to £11,850 from 6th April 2018. The basic rate band increases to £34,500 and the higher rate threshold will rise to £46,350 in 2018/19 tax year. This excludes Scotland where a progressive tax rate has been implemented, with the starter rate of 19% being from £11,851, with the basic rate of 20% bring from £13,851, the intermediate rate of 21% being from £24,001, the higher rate of 41% bring from £43,431 and a top rate of 46% on income over £150,001.

A reminder that not everyone has the benefit of the full personal allowance. There is a reduction in the personal allowance for those with 'adjusted net income' over £100,000, which is £1 for every £2 of income above £100,000. So for 2017/18 there is no personal allowance where adjusted net income exceeds £123,000. For 2018/19 there will be no personal allowance available where adjusted net income exceeds £123,700. Contact us for advice on planning to avoid this 60% rate.

Scottish Income Tax Rates:

Income tax for Scottish taxpayers is set to change significantly from 6 April 2018, as their earnings, pensions and profits will be subject to up to five rates of Scottish income tax.

The thresholds for various Scottish tax rates don't align with the thresholds for national insurance contributions (NIC). The resulting tax and NIC bands for 2018-19 are shown in the table. The effective rate between £100,000 and £123,700 arises due to the withdrawal of the personal allowance where income exceeds £100,000.

You are classified as a Scottish taxpayer if your main home is in Scotland, in which case you should have a PAYE code that starts with 'S'. If you are a Scottish taxpayer who is self-employed, you will pay the Scottish tax rates shown in the table plus NIC of 9% instead of 12%.

Tax relief on pension contributions will continue to be given at 20%, even for Scottish taxpayers who pay tax at only 19%. Any additional tax relief at 21% or higher rates will have to be claimed in your tax return or by contacting HMRC.

Scottish taxpayers who receive significant amounts of dividends or interest in 2018-19 will have to reperform their tax calculations using the tax bands and rates

which apply for the rest of the UK. Our tax return software will undertake that calculation for you on submission of your return.

Income in band £	Scottish tax rates %	Class 1 NIC rates %	Total rate on band %
0 – 8,424	0	0	0
8,425 - 11,850	0	12	12
11,851 – 13,850	19	12	31
13,851 - 24,000	20	12	32
24,001 - 43,430	21	12	33
43,431 - 46,350	41	12	53
46,351 – 100,000	41	2	43
100,001 – 123,700	61.5	2	63.5
123,701 to 150,000	41	2	43
Over 150,000	46	2	48

Tax Bands and Rates – Dividends:

Whilst it was hoped that the proposed reduction in the dividend tax allowance from £5,000 to £2,000 in April 2018 would not go ahead, due to it being dropped from the 2017 Finance Bill, this has now been dashed by the government reaffirming its commitment to cut the allowance.

Dividends received above the allowance are taxed at the following rates:

- 7.5% for basic rate taxpayers
- 32.5% for higher rate taxpayers
- 38.1% for additional rate taxpayers.

Dividends within the allowance still count towards an individual's basic or higher rate band and so may affect the rate of tax paid on dividends above the £5,000 allowance. To determine which tax band dividends fall into, dividends are treated as the last type of income to be taxed.

There is no current discussion as to whether the dividend allowance for the 2019/20 tax year will be reduced further or even abolished.

Personal Tax Account:

Every individual in the UK that pays tax already has a personal tax account with HMRC, but very few of us access it and make the most of the information available. That will change.

The personal tax account was launched in December 2015. By September 2016, over 600,000 individuals had received an income tax refund directly to their bank account, more than 100,000 individuals had updated company car details and nearly 1m customers had renewed their tax credit claims before the 31 July deadline.

Through the personal tax account, individuals have access to their tax affairs online in order to review records and carry out account management.

In order to access a personal tax account, individuals need a Government Gateway account, a national insurance number and proof of identity. Bank account details, a P60, the three most recent payslips and passport number and expiry will be accepted as proof of identity.

Individuals who have used HMRC online services previously should have a Government Gateway account already. Those setting up a Government Gateway account for the first time need their name, date of birth, national insurance number, and email address in order to sign up. They will then be required to create a password and will be sent a user ID.

Once the account has been activated, individuals will be able to select the services they wish to use, following which the relevant department will send an activation code.
Once an individual has gained access to their personal tax account, they will be able to carry out the following activities:

- Review income tax estimate and tax code
- Complete, send and view a personal tax return
- Claim a tax refund
- Review and manage tax credits
- Review State Pension
- View and manage tax forms that have been submitted online
- Update marriage allowance
- Notify HMRC about a change in address
- Check and update any work benefits, including company cars and medical insurance

Further services will be introduced by HMRC in the coming months.

Check your PAYE Code for Interest:

When you receive your PAYE Code or Tax Computation, carefully check any amount of interest shown as received.
HMRC regularly received details of interest paid by banks and building societies to individuals. In the past, it has used this information to check the amount on Tax Returns. However, it is now inserting the actual interest receipts into Tax Computations (Form P800), and Simple Assessment (Form PA302).

HMRC is also using 2016-17 interest data as a proxy for the interest expected to be received in 2017-18 and 2018-19, and is amending PAYE Codes (Form P2) accordingly.

Interest on joint accounts should not be used but the fact that the account is held jointly may not have been reported accurately by the bank.

You won't pay tax on interest if it is covered by your Personal Savings Allowance of £1,000 ((£500 for Higher Rate Taxpayers). Where you have little earned or pension income, your interest may be covered by your savings rate tax band of £5,000.

If you believe the figures in your PAYE Code are incorrect you can ask for an amendment using your Personal Tax Account.

Universal Credit Changes:

From January 2018 - Advance payments of up to 100 per cent of estimated entitlement will be available within 5 days of applying. There will also be a 12 month repayment period.

From February 2018 - The seven waiting days at the start of Universal Credit claims is to be abolished meaning claimants will have to wait 5 instead of 6 weeks for their first payment.

From April 2018 - The housing costs associated with stays in temporary accommodation are to be paid through Housing Benefit even if you are claiming Universal Credit. As these costs are often for short periods the Universal Credit system is not best suited to handle these.

From April 2018 - For those transferring from Housing Benefit to Universal Credit, Housing Benefit payments will be allowed to continue for an extra 2 weeks after the start of the Universal Credit claim. This is an attempt to reduce the

threat of eviction caused by delays in housing cost payments at the start of a new Universal Credit claim.

From February 2019 - Families with 3 or more children can make new claims for Universal Credit, before this time new claims are not accepted from this group. This was expected to happen towards the end of 2018 but has been pushed back.

Claim the Marriage Allowance:

The Marriage Allowance allows an individual to transfer 10% of their personal allowance to a spouse or civil partner where the recipient is neither a higher rate nor additional rate taxpayer.

The main scenario in which a transfer is allowed and worthwhile is where one of the individuals has little income and therefore has not used their personal allowance and the other individual does not pay tax at the higher or additional rate.

Once an online claim for the marriage allowance has been put in place for one year, it should apply for all later years, until you tell HMRC to stop.

If either of you were born before 6 April 1935 you may be better off claiming the married persons allowance.

Previously you were not allowed to apply to transfer the Marriage Allowance where one of the parties had died, however, the Autumn Budget 2017 announced that from 29 November 2017. Claims in respect of Marriage Allowance may be made in respect of a deceased spouse or civil partner, and that such claims may be backdated for up to four years.

Transfers could bring tax savings of up to £237 per year (2018/19 tax year).

We appreciate that you might prefer to delegate dealing with your tax matters at this time, and would be pleased to be of service.

Tax Credits and Benefits:

No increases in child tax credit, working tax credits or child benefits have been announced.

Savings:

Personal Savings Allowance:

Savings income is income such as bank and building society interest. The Savings Allowance applies to savings income and the available allowance in a tax year depends on the individual's marginal rate of income tax. Broadly, individuals taxed at up to the basic rate of tax have an allowance of £1,000. For higher rate taxpayers the allowance is £500. No allowance is due to additional rate taxpayers.

Some individuals qualify for a 0% starting rate of tax on savings income up to £5,000. However, the rate is not available if taxable non-savings income (broadly earnings, pensions, trading profits and property income less allocated allowances and reliefs) exceeds £5,000.

The personal savings allowance will be in addition to the tax advantages currently available to savers from Individual Savings Accounts.

Individual Savings Accounts (ISA)

The maximum annual investment limit for Individual Savings Accounts (ISAs) will remain at £20,000 for 2018/19 (of which, for eligible investors, £4,000 may be saved in a Lifetime ISA). Although the investment limit is not rising in the new tax year, a couple will still be able to add up to £40,000 to their ISA accounts during the year – a substantial investment limit – and the interest received will be tax-free.

The maximum investment limit for Junior ISAs will rise from 6 April 2018 to £4,260, so there is scope for parents and grandparents to make tax-free savings investments on behalf of their children/grandchildren. Since it is possible for children to hold both a Junior ISA and a Child Trust Fund (CTF) (the CTF investment limit for 2018/19 is also rising to £4,260), there is plenty of scope for investors to look for higher-yielding products.

Help-to-buy ISAs continue to be available to assist first-time buyers save a deposit to purchase their first home. Under this relatively new scheme, up to £200 a month may be saved (along with an initial deposit of £1,000, and up to a maximum of £12,000) and, subject to certain conditions, the government will provide a 25% boost to the savings up to a maximum of £3,000 per person. A couple buying together could therefore save up to £30,000 tax-free towards the purchase of their first home, but it will take around four and a half years to achieve this level of savings using the Help-to-buy scheme.

Lifetime ISAs can be used by people aged between 18 and 40 to save for a first home or later life (again, subject to certain conditions). A total of £4,000 may be

invested each year until aged 50. The Government will add a 25% bonus to savings, up to a maximum of £1,000 a year.

Premium Bonds:
The premium bond investment limit remains the same at £50,000, per individual, so a couple has a total investment limit of £100,000.

Unfortunately, the Government has recently confirmed that the new Help-to-Save scheme will not be fully available until October 2018. Ministers had originally said that the new accounts would start 'no later than April 2018' but this is not to be the case. This new type of account is designed to encourage people on low incomes to save for a rainy day by offering a 50% government top-up on savings. Over time, eligible individuals should be able to save a total of £2,400 in qualifying accounts, and receive bonuses of up to £1,200.

When a Spouse Dies:

Individual Savings Accounts (ISAs)
Money experts have estimated that because the small print about ISAs isn't widely known, almost nine in ten savers could be missing out when a spouse or civil partner dies.

On the death of an ISA-holding spouse or civil partner, it's possible to claim an extra ISA allowance. This means that the survivor is eligible for a one-off additional ISA allowance, equivalent to the value of the deceased saver's ISA: an 'additional permitted subscription' (APS) allowance. This is on top of the survivor's own ISA entitlement, which is £20,000 for the tax years 2017/18 and 2018/19.

The survivor is entitled to the APS allowance even if they do not actually inherit the ISA, and can use the allowance with the deceased's ISA provider or a provider of their choice. There are time limits for using the APS.

HMRC estimates that the survivors of at least 150,000 ISA holders each year could be eligible to take advantage of the APS. To qualify, the survivor must have been living with their spouse or civil partner at the date of death - in other words, not separated under a court order, under a deed of separation, or in circumstances where the marriage or civil partnership has broken down. Application for APS should be made to the manager of the deceased's ISA.

Stamp Duty Relief for First Time Buyers:

The November 2017 Budget introduced stamp duty land tax (SDLT) relief for first-time buyers who buy a property costing up to £500,000 from 22 November 2017.

The relief cut SDLT by £1,660 for someone buying the average first-time buyer property for £208,000. First-time buyers do not pay any SDLT on purchases of residential property costing £300,000 or less. For purchases costing between £300,000 and £500,000, they pay SDLT at the rate of 5% on the excess over £300,000. Normal rates of SDLT are paid on the full purchase price if it exceeds £500,000. A first-time buyer is defined as someone who has never owned a freehold or leasehold interest in a residential property in the UK or anywhere else in the world, and who intends to occupy the property as their main residence. Where there are joint purchasers, all purchasers need to be first-time buyers.

Beware of Social Media!!

HMRC are still routinely checking Facebook & other Social Media and are catching people out!! Watch what you put on your status if you're on FB or other such Media's:

Such as "*had a brilliant day selling, been on amazing expensive holiday to Barbados, Lots of School Trips for children, paying a fortune for my Daughters' Wedding*"

These are all the things they are looking at, and they will be seeing if your lifestyle fits your earnings, and can use this as a reason to check your business affairs.

Official Interest Rate:

The Official Interest Rate currently remains unchanged at 3%. This rate is used to calculate a taxpayer's benefit-in-kind charge on beneficial loans, for example.

Rent a Room Relief:

This tax relief is designed to encourage people to let out a spare room to a lodger and hence increase the availability of low-cost accommodation. In fact, the relief can also cover short-term lets. If you let rooms in your own home by the night through sites such as Airbnb, the scheme can apply, even if the letting amounts to a bed and breakfast business.

The relief covers gross rental income of up to £7,500 per year from letting furnished residential accommodation in your own home. You must live in the same property as the let rooms, though the relief can apply to rent received when you let the whole house for short periods, perhaps while you are away on holiday.
It can't apply to income you get from holiday lettings where you don't also occupy part of the same property nor can it apply to income from a buy-to-let not simultaneously occupied by the landlord.

Rent a Room does not apply to income from accommodation used as an office or for business other than by genuine lodgers (for example, students who are provided with study facilities in their lodgings, or lodgers who do some work in your home in the evenings or weekends).

You don't have to notify HMRC that you are claiming the relief if the gross rents received in the tax year don't exceed £7,500. . If the receipts are above the limit HMRC must be notified that rental income is being received and that rent-a-room relief is being claimed. This should be done by submitting a tax return by 31 January following the end of the tax year in which the rents are received. For example, if a room is being let during the summer of 2017, a tax return for 2017/18 should be submitted by 31 January 2019.

Landlords to Receive Less Tax Relief on Interest:

In a change that will impact residential landlords, the amount of income tax relief available on residential property finance costs will be restricted to the basic rate of income tax. This change will mean that landlords will no longer be able to deduct all of their finance costs from their property income. They will instead receive a basic rate reduction from their income tax liability for their finance costs.

The restriction in the relief will be phased in over a four-year period as follows:

- in 2017/18, the deduction from property income was restricted to 75% of finance costs, with the remaining 25% being available as a basic rate tax reduction
- in 2018/19, 50% finance costs deduction and 50% given as a basic rate tax reduction
- in 2019/20, 25% finance costs deduction and 75% given as a basic rate tax reduction
- from 2020/21, all financing costs incurred by a landlord will be given as a basic rate tax reduction.

These rules do not apply to residential properties held in companies or furnished holiday lettings. The restrictions apply to any interest and finance costs and so would also limit mortgage application fees and interest costs on loans to buy fixtures or furniture.

In addition rules may further restrict the relief which is due where the individual's property income or total income is less than the amount on which basic rate relief is due. The computation is complex so please do get in touch if you would like us to review your position.

When thinking of investing in a new residential property, careful consideration should be given to the amount of tax relief to decide on the viability of taking on a new loan.

Tax on Acquiring Property in Wales:

HMRC inform us that 'Tax is changing in Wales': and indeed it is. From April, the Welsh Government and the National Assembly for Wales take on responsibility for some taxes paid in Wales, and property acquisition is one major area of change. Stamp Duty Land Tax (SDLT) is replaced by Land Transaction Tax (LTT) in Wales from 1 April 2018.

Since 1 April 2016, higher rates of SDLT have been charged in Wales on purchases of additional residential property (including second homes), and LTT continues this.

Welsh first-time buyers benefit from the Budget stamp duty relief announced by the Chancellor in his Autumn Budget 2017 - until 31 March 2018. After that, under LTT, the starting threshold for residential rates will be £180,000. According to Welsh Finance Minister, Mark Drakeford, this will take not just the majority of first-time buyers out of tax, but also many others 'looking to buy a home.'

LTT is set at 0% on residential purchases up to £180,000: 3.5% from £180,000 to £250,000: 5% from £250,000 to £400,000: 7.5% from £400,000 to £750,000: 10% from £750,000 to £1.5m and 12% above this figure.

Tackling the plastic problem:

The government will call for evidence as to how changes to the tax system could be used to reduce the amount of single-use plastics that are wasted by reducing unnecessary production, increasing re-use and improving recycling. The government would also like to explore how to drive innovation in this area to achieve the same outcomes.

Property and Trading Income Allowances:

Whilst the idea of a £1,000 tax free allowance sounds simple, as always there are a number of areas which the tax payer needs to be aware of.

There are two new allowances a Trading Allowance and a Property Allowance, which were originally introduced in the 2016 budget but was one of the many items dropped due to insufficient time for debate prior to the general election. They have now been reintroduced as part of the Finance (No. 2) Bill 2017 which was published in September.

The Trading Allowance was introduced to provide simplicity and certainty for income tax obligations of individuals on small amounts of trading and sundry income from providing goods, services and other assets through, for example, selling on ebay. In its simplest form it provides for a complete exemption from income tax if total trading and sundry income in the tax year is less than £1000. Not only is there no income tax to pay but there is also no requirement to register with HMRC or file tax returns. The threshold applies to INCOME not profits and there are exceptions and nuances which are set out below.

Partial Exemption

Should trading income exceed £1000 there is partial relief in which individuals can choose either to:

- deduct their actual business expenses from trading income in the normal way or
- Elect to use the £1000 trading allowance as a deduction from income (Note if an individual claims partial relief they cannot deduct other expenses)

Do you use Cash basis or GAAP?

The trading allowance applies to both methods of accounting and is applied to whichever method is adopted however, for the purpose of full relief only, if

- GAAP income is more than £1000 but
- Cash basis is less than £1000

The cash basis is assumed to be used which allows full relief without needing to elect for the cash basis.

There are Exclusions!

1. The trading allowance is not available for partnerships or against income which attracts rent a room relief
2. No relief is available if trading income includes any amounts received from:
    a. An employer, or a spouse/civil partners employer
    b. A partnership in which they, or a connected party, are a partner or
    c. a close company in which they, or an associate, are a participator

This second exclusion could be very restrictive as any amount of income from that source will completely deny relief for that tax year.

As an example, if an individual is employed but has a hobby taking photographs and the employer purchases one or a few of the photographs for their website, that will be sufficient to deny relief via the Trading Allowance.

Where an individual has more than one trade or hobby which generates income the total of all activities are used to determine whether the allowance can be claimed which can lead to difficulties if an existing sole trader starts a second small trade.

This means that an individual can claim the allowance despite having a large income from employment or a partnership but an existing sole trader is unlikely to benefit.

State Pensions and Benefits:

State Pension (per week)

	2018/19	2017/18
Old state pension – Single person	£125.95	£122.30
Old state pension – Married couple	201.45	195.60
New state pension #	164.35	159.55

Applies to those reaching state retirement age after 5 April 2016

State Pension Age

There were no announced changes to State Pension age. The government made an announcement last summer outlining changes for 2017-18. The current State Pension age for men is 65. For women, it is gradually increasing from 60 to 65 and is currently 64 and 2 to 3 months depending on your date of birth. State Pension age will be increasing from 66 to 67 between 2026 and 2028. There will also be reviews every 5 years after that to look at State Pension age.

If the math's is a bit too much for you at this moment, the people who will be affected by this date change are currently aged 39 – 47, and that equals around 6 or 7 million people in the UK today.

What about those under 39 years old?
You'll just have to wait and see, but it's likely the State Pension age will continue to creep up. Currently you'll be expected to receive your State Pension from the time you reach 68, but this comes with a caveat that it may change in the future.

Use the gov.uk State Pension calculator to find out your State Pension age.

State Pension Entitlements:

The state pension is clearly a worthwhile thing to have, particularly for the self-employed who will receive a pension through the new 'flat rate' pension. However, there have been numerous changes to the qualification criteria over recent years and now may be a good time to check your entitlement.

One thing which is worth bearing in mind is that it is the individual's obligation to keep track of their own entitlement and ensure that it is correct, although most people do not appreciate that. Keeping track of this over a working life is difficult but rectifying problems with the state pension at the point of retirement can be even more difficult, so a quick check of your position once every four or five years is time well spent.

Are you or have you been self-employed?
A recent case lays out some of the historic problems with the state pension. The taxpayer was both employed and self-employed between 1965 and 2013 when he retired. He was dissatisfied with his state pension on retirement and queried his NIC record. As a result he was sent a full breakdown of the NIC paid during his career. He queried a number of matters on that breakdown, including the periods of nil payment in 1993/94 to 1996/97. The taxpayer appealed his NIC record from 1965 to 2013, on various grounds including:

- it was the obligation of HMRC to send him statements showing NIC due

- he was submitting income tax returns for the same period and the Inland Revenue and National Insurance Contributions Agency must have shared the information.

The Tribunal, in summary, held that the onus was on the taxpayer to have sorted things out during his working life and that he had limited ability to do anything at the point of retirement.

Protection your Lifetime Pension Allowance:

The pensions lifetime allowance places a cap on overall tax-relieved pension savings. Pension savings in excess of the lifetime allowance are subject to a lifetime allowance charge, which effectively claws back tax relief.

The lifetime allowance was reduced from £1.25 million to £1 million with effect from 6 April 2016. People who had pension savings in excess of £1 million at that date, but not more than £1.25 million can protect their lifetime allowance from the effect of the reduction. There are two types of protection available – individual protection 2016 and fixed protection 2016.

It was announced in the Budget on 22 November 2017 that the lifetime allowance would be increased in line with inflation to £1.030 million from 6 April 2018.

Individual protection 2016

Individual protection 2016 is available where an individual has tax-relieved pension savings on 5 April 2016 worth between £1 million and £1.25 million. The protection fixes the lifetime allowance at the lower of their pension savings on that date and £1.25 million. Thus a person with pension savings of £1.2 million on 5 April 2016 would be able to protect their lifetime allowance at £1.2 million. Where individual protection is in place, a person can continue to add to their pension savings – but they must pay a tax charge on money taken from their pension to the extent that it exceeds the protected lifetime allowance.

The lifetime allowance has suffered previous reductions and other protections may be in place. A person can still apply for individual protection 2016 if they also have enhanced protection, fixed protection, fixed protection 2014 or fixed protection 2016. Where another protection is in place, individual protection 2016 will lie dormant until previous protections are either lost or given up. HMRC must be notified when this happens. However, an application for individual protection 2016 cannot be made by a person who has primary protection or individual protection 2014.

An application for individual protection 2016 can be made online.

Fixed protection 2016

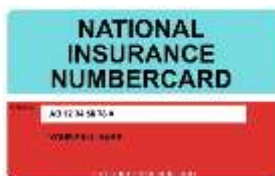
The second type of protection available is fixed protection 2016. This fixes the lifetime allowance at £1.25 million. However, fixed protection 2016 is only available if neither the individual nor his or her employer have added to the pension since 5 April 2016 and the individual has opted out of any workplace schemes (e.g. under auto-enrolment) since 5 April 2016. Further, an individual who has enhanced protection, primary protection, fixed protection or fixed protection 2014 (which protect the allowance from earlier reductions) cannot apply for fixed protection 2016.

Where fixed protection 2016 has been granted, it is not able to add to the pension (except in very limited circumstances). If further contributions are made, fixed protection will be lost and tax will be payable on any pension in excess of the standard lifetime allowance at the time the pension is taken.

As with individual protection 2016, applications for fixed protection 2016 can be made online.

Check your NI record:

The amount of state pension you receive on retirement depends on how many full years for which you have paid National Insurance Contributions (NIC). You can check your NI record at www.gov.uk/check-nationalinsurance-record, or request a print by phone or by email. Self-employed individuals have to pay a flat rate of class 2 NIC and a separate class 4 NIC, which is based on the taxpayer's annual profits. For many years, class 2 NIC was paid weekly to the Department of Social Security or at the Post Office. Since 1996 it has been collected by the Inland Revenue, now HMRC. If you didn't pay class 2 NIC, you may have a significant gap in your NI record. Although class 4 NIC is generally a larger annual payment, it provides the payer with no entitlement to state benefits or pension. You can fill gaps in your NI record for the last six tax years, and you may be eligible to claim NI credits for other years.



HMRC Scam E-Mails:

HMRC are still warning taxpayers to be wary of the continuing e-mail phishing scams that claim to offer tax rebates in return for bank account details. They are still receiving thousands of reports of phishing scam e-mails every year.

HMRC states that it never contacts taxpayers via e-mail regarding a refund and advised anyone who receives an email claiming to be from HMRC:

- not to click on any links or attachments
- forward it to phishing@hmrc.gsi.gov.uk and then
- delete it permanently.

How to tell if an email is fraudulent:
As well as spelling mistakes and poor grammar, there are a number of things you can look out for to help you recognise a phishing/bogus e-mail. For example, look out for a sender's email address that is similar to, but not the same as, HMRC's email addresses. Fraudsters often have email accounts with HMRC or revenue names in them (such as refunds@hmrc.org.uk'). These email addresses are used to mislead you. However be aware, fraudsters can falsify (spoof) the 'from' address to look like a legitimate HMRC address (for example '@hmrc.gov.uk').

HMRC have published advice and examples of typical fake emails at:
www.hmrc.gov.uk/security/index.htm

Self-Employed and Want A Mortgage?

If you're one of the UK's nearly five million self-employed people, you may know how tricky it can be to get a mortgage. 'All borrowers are jumping through more hoops than ever, but the self-employed will have to leap far higher,' said a spokesperson at analyst, Moneyfacts.

Unlike employees with a steady salary stream, the self-employed can be faced with ups and downs in income - good years and bad years. There can also be problems providing evidence of income, especially if you have only recently started trading and haven't accounts going back for two or three years.

You will need to ask your lender or mortgage provider what they will accept as evidence of income, but the good news is that there are increasing numbers of mortgage providers and lenders accepting a SA302 Self Assessment Tax Calculation printed from your HMRC online account, or a Tax Calculation printed from the Tax Return software we use, as your Agents. Also needed is a tax year overview from your online tax account.

You can find the list of lenders on the gov.uk site at goo.gl/W4ygRJ
The timely preparation of accounts and submission of Tax Returns will help any application and we are always pleased to be of service here.

Capital Taxes (CGT):

The current rates of CGT are 10%, to the extent that any income tax basic rate band is available, and 20% thereafter. Higher rates of 18% and 28% apply for certain gains; mainly chargeable gains on residential properties, with the exception of any element that qualifies for private residence relief.

There are two specific types of disposal which potentially qualify for a 10% rate, both of which have a lifetime limit of £10 million for each individual:

- Entrepreneurs' Relief (ER). This is targeted at working directors and employees of companies who own at least 5% of the ordinary share capital in the company and the owners of unincorporated businesses.
- Investors' Relief. The main beneficiaries of this relief are external investors in unquoted trading companies who have had newly-subscribed shares.

ER - Relief After Dilution of Holdings:
The government will consult on how access to ER might be given to those whose holding in their company is reduced below the normal 5% qualifying level (meaning 5% of both ordinary share capital and voting power) as a result of raising funds for commercial purposes by means of an issue of new shares. The proposal would allow shareholders to elect to crystallise a gain on their shares before the dilution occurs. This would be achieved by treating the shareholding as having been sold and immediately re-purchased at the prevailing market value. The election will have to be made in their tax return for the year in which the dilution takes place. The shareholder may also elect to defer the accrued gain until their shares are actually disposed of.

Inheritance Tax:

Inheritance Tax (IHT) is charged at 40% and may be due from an estate when someone dies, unless the estate is left to a spouse or civil partner. However, there are a number of key planning points and tax reliefs to bear in mind. There is often scope to reduce significantly a taxpayer's IHT liability, provided that appropriate and timely action is taken.

The nil rate band takes the first £325,000 out of IHT, and from 6 April 2017, a new nil rate band, called the 'residence nil rate band' (RNRB), has been introduced, meaning that the family home can be passed more easily to direct descendants on death.

The RNRB is being phased in. For deaths in 2017/18 it is £100,000, rising to £125,000 in 2018/19, £150,000 in 2019/20 and £175,000 in 2020/21. Thereafter it will rise in line with the Consumer Price Index.

There are a number of conditions that must be met in order to obtain the RNRB, which may involve redrafting an existing will. No action should be taken though in this regard without consulting the detailed legislation or seeking professional advice.

Downsizing

The residence nil rate band may also be available when a person downsizes or ceases to own a home on or after 8 July 2015 where assets of an equivalent value, up to the value of the residence nil rate band, are passed on death to direct descendants.

IHT online

HMRC have begun providing an online form to help executors in England and Wales who wish to notify them of the value of an estate. The form can be used instead of the paper IHT205 form. It is available at **goo.gl/rLavQF**

It is for use:

- by personal representatives of the deceased
- applying for a grant of representation, such as probate
- in England and Wales
- in circumstances where no IHT is likely to be payable.

Gifts

Annual gifts of up to £3,000 per donor are exempt. You can give as many gifts of up to £250 to as many people as you want. Although not to anyone who has already

received a gift of your whole £3,000 annual exemption. None of these gifts are subject to Inheritance Tax.

For Wedding gifts to be effective for inheritance tax purposes, it has to be made before, not after, the wedding and the wedding has to happen, and it has to be:

Given to a child and is worth £5,000 or less>
Given to a grandchild or great-grandchild and is worth £2,500 or less.
Given to another relative or friend and is worth £1,000 or less.

Gifts between husband and wife are generally exempt, if both are UK domiciled. It may be desirable to use the spouse exemption to transfer assets to ensure that both spouses can make full use of lifetime exemptions, the nil rate band and PETs.

Charitable Gifts:
A reduced rate of IHT applies where 10% or more of a deceased's net estate (after deducting IHT exemptions, reliefs and the nil rate band) is left to charity. In those cases the 40% rate will be reduced to 36%.

Lifetime gifts fall into one of three categories:

- a transfer to a company or a trust is immediately chargeable
- exempt gifts which will be ignored both when they are made and also on the subsequent death of the donor, eg gifts to charity
- any other transfers will be potentially exempt transfers (PETs) and IHT is only due if the donor dies within seven years of making the gift. It might therefore be more advisable to regard them as potentially chargeable transfers.

When was the last time you reviewed your Will?

Do you have any idea if your estate will have an inheritance tax liability when you die? How much will it be? Who will have to pay it?

Planning opportunities arise if:

- If you have assets that you would like to give away.
- If you have any interests in a business or company, or own agricultural property.
- If you have assets that you would like to gift, but are concerned that other parties may seek to control those assets against your wishes.

These and many other scenarios, particular to your circumstances, may be available. The key is to explore these planning strategies before the burden of responsibility for settling tax is passed to your executors, and ultimately, your family and beneficiaries.

Insurance Premium Tax:

Since June 2017 the standard rate of IPT applying to most general insurance is 12%. Life and other long-term insurance is exempt.

A higher rate applies to some mechanical breakdown and travel insurance, and insurance sold with certain goods. The higher rate is 20%.

Lasting Powers of Attorney - what are they and do I need one?

A Lasting Power of Attorney (LPA) is a legal document which enables you to decide who you trust to make decisions about your finances, property or healthcare, in the event you are no longer able to do so, and appoint them as your Attorney.

Age-related issues such as dementia are often the reason that people are no longer able to make such decisions. However, an event such as an accident or illness could also have this impact.

Without an LPA (or a valid Enduring Power of Attorney executed prior to October 20017), those closest to you could be faced with an application to the Court of Protection to give them authority to act on your behalf with regards to and health and welfare, as a court appointed Deputy.

The application process for being appointed as Deputy can be lengthy and the costs are a lot higher.

But more important than cost, the choice of who to appoint to act in your best interests rests with the Court based on the evidence provided to it, not with you.
A brief summary of the two types of LPA's available:-

Property and Financial Affairs
This type of LPA covers decisions your Attorney may need to make concerning your property and finances. This includes the day to day matters such as managing your bank account, and also significant decisions, for example selling your home and investing the proceeds for your use and benefit, in the event you need care in a nursing home.

Health and Welfare
With this type of LPA, unless you add restrictions, your Attorney will have authority to make all personal welfare decisions on your behalf except for:

- Life sustaining treatment, unless you have expressly authorised this
- Where you subsequently make an Advance Decision (Living Will) to refuse treatment.

These decisions can only be made on your behalf if you lack the capacity to make these decisions yourself.

You would need to seek legal advice if you feel this may be of interest to you.

Non-UK domiciles:

Non-domiciliaries (non-doms) may have been deemed UK domiciled for all tax purposes since 6 April 2017 – possibly without knowing it – under retrospective changes contained in the September 2017 Finance Bill.

When the measures were dropped from The Finance Act 2017, there were calls to delay them until April 2018 to provide non-doms with some certainty on their status, but they have not been heeded.

Non-doms will now become 'deemed domiciled' and lose the tax benefits of their status after they have been resident in the UK for at least 15 out of the previous 20 tax years.

A person who is deemed domiciled will generally be subject to income tax, capital gains tax (CGT) and inheritance tax (IHT) on the same basis as someone who is UK domiciled. Until 5 April 2017, deemed domicile status applied only to IHT and an individual had to be UK resident for 17 of the previous 20 tax years to be deemed UK domiciled. People who were born in the UK with a UK domicile of origin and who return to the UK after obtaining a domicile of choice elsewhere are also now deemed domiciled.

Remittance basis taxpayers who become deemed UK domiciled under the new 15-year rule will be able to rebase their overseas assets to their market value at 5 April 2017. This means that any gains accruing up to 5 April 2017 will not be charged to CGT. Remittance basis taxpayers will also be able to rearrange their overseas mixed funds to allow them to segregate amounts of income, gains and capital within these funds, so that they can remit capital (not liable to tax) ahead of income and gains.

Also from April 2017, IHT will be charged on UK residential property even when indirectly held by a non-dom through an offshore structure. This affects three categories of property: a closely held company, an interest in a partnership or the benefit of certain loans used to acquire, maintain or improve UK residential property. An interest of less than 5% in the structure is exempt.

Because the changes have been backdated, there is transitional relief for chargeable events that are reportable or would have interest accruing on unpaid IHT from a date on or before the end of the month after the date when the Act comes into force.

Potential Child Benefit Trap:

Child Benefit can pay a parent £20.70 a week for the first child and £13.70 a week for each additional child. However, if a person's (or partner's) income exceeds £60,000, then all of the Child Benefit will need to be repaid through an increase in tax liabilities of the higher earner. To avoid this, affected persons can elect not to receive the Child Benefit in the first place. However this may mean for some 'stay at home' parents that they miss out on accruing entitlement to state pension.

The best advice therefore is to fill in the Child Benefit form (it is available as an online form – search 'child benefit form' on the internet). The government also recommends completing the form but the detail is rather hidden in the eight pages of notes which are available with the online form!

The ability to check your position has improved markedly with the advent of the internet and your state pension can initially be checked at www.gov.uk/check-state-pension. So don't delay – get a pension forecast and if you believe it is incorrect please get in touch with us and we can consider your options.

You can choose to stop or restart your Child Benefit at any time. Use the Child Benefit tax calculator to work out how income changes affect the tax charge.

Tax-Free Childcare: New Government Scheme:

The implementation of Tax-Free Childcare, the new government scheme to help working parents with the cost of childcare, has been rolled out in stages.

The scheme first made its debut in April 2017 and although there have been initial systems problems, HMRC expect that the scheme will be open to all eligible parents by 14 February 2018. Application is made online through the Childcare Choices site **goo.gl/2jWL4z** and application can be made for all eligible children at the same time.

Under Tax-Free Childcare, for every £8 the parent pays, the government provides a £2 top-up, to a maximum of £2,000 per child each year – with a higher limit of £4,000 for disabled children. This gives a total childcare pot of £10,000, or £20,000 for disabled children. To be eligible, parents must generally have minimum weekly earnings of at least £120 each. There is also an upper earnings limit of £100,000.

Employers may like to advise affected employees that there may be the possibility of compensation if a parent is unable to complete an application for Tax-Free Childcare; is unable to access their childcare account; or doesn't get a decision about whether they are eligible, without explanation, for more than 20 days. Those employing a nanny should be able to use the childcare account to pay their PAYE tax and National Insurance. Delays in getting this system working may also give grounds for compensation. Application is made online **goo.gl/AfnQh9.**

Limited Liability Partnerships:

HMRC are still viewing a partner in a limited liability partnership (LLP) as not automatically being regarded as self-employed.

Depending on the nature of the partner's work, he or she may be regarded as an employee, which means that their earnings must be paid through the payroll with PAYE and national insurance deducted.

Corporation Tax Rates:

Corporation tax rates have already been enacted for periods up to 31 March 2021.

The main rate of corporation tax is currently 19%. The rate for future years is:

- 19% for the Financial Years beginning on 1 April 2018 and 1 April 2019
- 17% for the Financial Year beginning on 1 April 2020.

Making Tax Digital for Business (MTDfB):

Extensive changes to how taxpayers record and report income to HMRC are being introduced under a project entitled Making Tax Digital for Business.

HMRC has now published the Value Added Tax (Amendment) Regulations 2018, setting out the requirements for MTD for VAT.

HMRC is phasing in its landmark MTD regime, which will ultimately require taxpayers to move to a fully digital tax system. This will begin with businesses with a turnover above the VAT threshold.

Under the new rules, from 1 April 2019 businesses with a turnover above the VAT threshold (currently £85,000) must keep digital records for VAT purposes and provide their VAT return information to HMRC using MTD functional compatible software.

HMRC is piloting MTD for VAT during 2018, ahead of its introduction in April 2019.

The government has decided how the general principles of MTDfB will operate. Under MTDfB, businesses, self-employed people and landlords will be required to:

- •• maintain their records digitally, through software or apps
- report summary information to HMRC quarterly through their 'digital tax accounts' (DTAs)
- make an 'End of Year' declaration through their DTAs.

DTAs are like online bank accounts – secure areas where a business can see all of its tax details in one place and interact with HMRC digitally.

Exemptions:
Businesses, self-employed people and landlords with turnovers under £10,000 are exempt from these requirements.

Sanctions for late submission and late payment:
Following significant support on consultation, the government intends to take forward points based late submission penalties. There will be further consultation on the draft legislation to be published in summer 2018.

VAT:
HMRC is phasing in its landmark Making Tax Digital (MTD)
regime, which will ultimately require taxpayers to move to a fully digital tax system. Regulations have now been issued which set out the requirements for MTD for VAT. Under the new rules, businesses with a turnover above the VAT

threshold (currently £85,000) must keep digital records for VAT purposes and provide their VAT return information to HMRC using MTD functional compatible software.

The new rules have effect from 1 April 2019, where a taxpayer has a 'prescribed accounting period' which begins on that date, and otherwise from the first day of a taxpayer's first prescribed accounting period beginning after 1 April 2019.

HMRC is piloting MTD for VAT during 2018, ahead of its introduction in April 2019. Keeping digital records and making quarterly updates will not be mandatory for taxes other than VAT before April 2020, although businesses below the VAT threshold which have voluntarily registered for VAT can opt to join the scheme. As with electronic VAT filing at present, there will be some exemptions from MTD for VAT. However, the exemption categories are tightly-drawn and unlikely to be applicable to most VAT registered businesses.

Keeping digital records will not mean businesses are mandated to use digital invoices and receipts but the actual recording of supplies made and received must be digital. It is likely that third party commercial software will be required. Software will not be available from HMRC. The use of spreadsheets will be allowed, but they will have to be combined with add-on software to meet HMRC's requirements.

In the long run, HMRC is still looking to a scenario where income tax updates are made quarterly and digitally, and this is really what the VAT provisions anticipate.

Collection - Split Payment

The government wants to combat online VAT fraud by harnessing new technology and is consulting on VAT split payment. This will utilise payments industry technology to collect VAT on online sales and transfer it directly to HMRC. In the government's view this would significantly reduce the challenge of enforcing online seller compliance and offer a simplification for business.

Use of Home Allowances:

Not only is there no place like home, but you can also save some tax by working there. So whether you work entirely from home, or just do your invoicing from the kitchen table, you can claim an element for use home as an office in your business expenses.

Self Employed (sole traders and partnerships)
You get a much better deal than limited companies when it comes to use of home expenses. You can claim a lot more, particularly if you are using the proportion of home method. You can also include the costs of setting up your home office e.g. office furniture etc, under equipment or fixed assets.

Simplified expenses method
This is a nice, easy and straightforward option but you might not save as much as you do using the proportion of home method below. If you work from home an average of 25 hours per month or more, you can use HMRC simplified expenses which gives a simple monthly flat rate. There are three levels depending on how many hours you are working from home. The current maximum rate is £26 per month if you work 101 hours per month or more, which would give £312 per year for your use of home expense.

Proportion of home method
This is a more complicated method because it involves looking back through your yearly bills. However if you mainly work from home and have a reasonable home office space, this can very be worthwhile doing and you only need to work it out once a year.

- Work out the total for the home office costs. You can do this on a monthly or yearly basis. Costs can include: Heating, Electricity, Council Tax, Rent / Mortgage interest (just the interest part of your payments, not the capital), Home insurance, Water.
- Work out what proportion of your home is used as an office. A simple way is to count the number of rooms (not including kitchen, toilets and bathrooms) and then work out the office space as a percentage of this. Example – there are three bedroom and a lounge; the whole of one bedroom is used as the office, so this is 25% of the rooms. You can also do it based on floor area. Multiply your total office costs from step one by your area percentage. If you are using your garage for work you can also include this in the calculation.
- Work out the proportion of time you spend working from home. Example – if you work at home full-time for five days per week then you can have 5

divided by 7 (equals 71%) as the percentage of the costs. If you work there for just half a day a week then you can have 0.5 divided by 7 (equals 7%) as the percentage of the costs. Multiply your answer from step two by your time percentage to give your final use of home expenses figure.

Don't get too tied up with working out the percentages for area or time spent. They have to be a fair and reasonable reflection of your circumstances but HMRC is not going to come round with a ruler and a stopwatch. Just do your best estimate.

If you are not sure which of these methods to use, HMRC has a comparison tool to help you decide.

Limited Companies

Limited companies are more restricted in what can be claimed for use of home. This is because you, as a director, are considered to be an employee of the company. The only things that an employee can claim from the company are any additional costs that they have incurred. You can not include anything that you would have had to pay anyway because this is considered to be a benefit in kind and would be included on your personal tax return.

Flat rate method

There is a flat rate for limited company employees as well as for sole traders, however it is a bit stingier as there is only one rate no matter how many hours you work at home. The current rate is £4 per week or £18 per month for employees working regularly from home to cover the additional costs of heating and lighting the work area. It is possible to have a different flat rate but it needs to be justified and agreed in advance with HRMC. Again this is the simplest method but the maximum you can claim is currently £208 per year saving £41.60 in Corporation tax.

Proportion of home method

This is similar to the method above for sole traders but you are restricted on what costs you can include. It is only the additional costs incurred that can be counted. Rent, mortgage interest, water rates and council tax can **not** be included as you would have to pay these anyway. You can only include heat and light in step one, then steps two and three are the same.

What else can I claim?

Use of home flat rates do not include the business proportion of broadband or home phone. You can work these out and add them to your expenses in addition to your use of home. If you are using the proportion of expenses method you can add these in with your office costs total. However, I think it is worth doing these

separately as they are not directly related to the amount of space that you use, so the percentage of business use might be different particularly for broadband. Home contents insurance could also be included if you need to increase your insurance payments to cover it your business use, but you can only have the amount that it increases by, not the total.

Is this money owed to me, can I take it out of the business?

It is owed to you because you are personally paying for some business expenses. The main purpose of the figure is to go into the accounts, to reduce the profit and therefore reduce the tax that you will need to pay. You can reimburse yourself with the money directly out of the bank account if you choose. However, the more common choice is to balance the amount off against other money you have taken out of the company through drawings (sole traders) or the directors account (limited companies).

Summary

It is always worth putting something in for use of home if you are making any use of your house at all, even if it is just for admin and invoicing.

If you want to keep it simple or you don't spend much time there then use the flat rate.

If you work there for most of the time then the proportion of home method can be worth the extra time to work out particularly for self employed.

Don't forget the business percentage of broadband, home phone and contents insurance in addition.

Construction Industry Scheme (CIS):

Subcontractor Verifications:
As from April 2017, CIS verifications are mandatory, and contractors must use an approved method of electronic communication to verify their subcontractors.

Also from April 2017, HMRC will no longer accept any telephone calls to verify subcontractors and from then you must verify subcontractors using the free HMRC CIS online service, or commercial CIS software.

These changes are part of a series of improvements HMRC have made to CIS to increase efficiency and accuracy, and to reduce administration. These have also included the ability to amend returns online, and the addition of an online message/alert service.

Travel Expenses for Workers Paid Under CIS:
If a worker is paid within PAYE as an employee it is right and proper that his employer pays the costs of his getting to jobs in the course of his working day, or if he is sent to work away from home, the costs of travelling around the country. If a worker is self-employed he is in business on his own account. He should be pricing for work and the price should include the costs of everything involved in that job. If the employer pays travel on top of an hourly rate or daily rate the whole thing begins to look like false self-employment (The employer is demonstrating that he thinks he is responsible for travel costs). So expect enquiries, and trouble, if you pay CIS worker travel costs, and remember that you **must** apply CIS deductions to everything you pay to CIS workers. You cannot pay the travel costs gross on the basis that it is a simple refund of cost expended. You are claiming that these workers are self-employed, so their travel costs are their own business, and all their receipts should be taxed as one sum.

Should you feel that you may be involved within the scope of the Construction Industry and that the CIS Scheme may affect you, please contact us straightaway, as severe penalties can be levied for non-compliance.

Corporate Tax Loss Relief:

When Corporation Tax Loss Relief changes came into force in April 2017, it wasn't with a massive fanfare. However, as we now start to deal with accounting periods where the impacts can be felt, we are increasingly being asked by clients what this will mean to them.

What are the changes?

There are two parts to the changes:

Loss Relaxation: You will be able to set losses arising from 1st April 2017, when carried forward, against the total taxable profits of your company and any group companies.

Loss Restriction: You will only be able to set carried-forward losses (whenever they arose) against up to 50% of profits. However, each company or group will be entitled to a £5 million annual allowance, and profits within the allowance will not be restricted. As a result 99% of companies are unaffected by the restriction.

Who will benefit?

Apart from charitable companies, all companies can benefit from the loss relaxation measures, although there are some specific rules around companies with insurance or investment business, creative industries and those whose activities are oil or gas related.

How do the new rules work?

The new rules are complex, and affect a range of different loss types you may be managing in your business, including:

- Trading losses
- Non-trading loan relationship debits
- Management expenses of an investment business
- UK Property losses
- Non-trading losses on intangible fixed assets

Company Secretary Role:

We are still reviewing and notifying clients that have only a single Director and no Company Secretary, or where there are Husbands and Wives as either both Directors or one a Director and one as Company Secretary.

This is because a scenario has been identified where a problem can arise with a Company operated by a sole Director with no Company Secretary. The scenario is that the Director can either pass away suddenly or become incapacitated, in a coma for example, and leave this Company without anyone authorised to operate the Limited Company in relation to Companies House. Therefore the Company in effect could not operate until either a Will had been settled, or a Power of Attorney secured.

It has also been highlighted that this could also occur where the only officials in a Company are Husband and Wife (or Partners). This is because there is a higher chance of you both being together if there was a car accident or an accident on holiday, than there would be if it was two non-related individuals were acting for the Company.

As this has been brought to our attention, we are notifying all affected clients. We do offer a Company Secretary Service, and this is already the case for a large number of our clients. Davis & Co, have no authority to sign or undertake any responsibilities, and take control or run the Company on your behalf, it is purely a measure to ensure that someone authorised is always available to deal with Companies House on behalf of the Company.

People with Significant Control (PSC) Changes:

The new requirement for registered companies to keep a PSC register came into force from April 2016. From that date a company had to create and maintain a register of any people with significant control or influence over the company.

As a quick reminder, a PSC is a person who:

- holds, directly or indirectly, more than 25% of the shares;
- holds, directly or indirectly, more than 25% of the voting rights;
- holds the right, directly or indirectly, to appoint or remove a majority of directors;
- otherwise has the right to exercise, or actually exercises, significant influence or control over the company;
- has the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm which is not a legal person,

the trustees or members of which would satisfy any of the four conditions above.

Details of the PSC register had to be submitted to Companies House as part of a company's annual confirmation statement from 30th June 2016. The confirmation statement replaced the old annual return. Companies were required to notify Companies House about changes to their existing PSC register via their confirmation statement each year. Changes can include new people being added to the register as well as someone ceasing to be a PSC.

What are the new changes?

The PSC register was introduced to comply with the EU Fourth Money Laundering Directive ('4MLD'). The directive required that the information held by Companies House was "adequate, accurate and current". Until now PSC updates were required on an annual basis, with in year updates encouraged, however this did not meet the requirement that the information was current.

With effect from 26 June 2017, Companies House require any changes to a company's PSC register to be notified as they occur. It is no longer permitted to simply wait to update the next confirmation statement.

What changes do we need to report?

The most common changes that will need updating in the PSC register and reporting to Companies House include:

- Changes in specified details of a PSC – for example, a PSC changes their residential address or a Relevant Legal Entity (RLE) changes its name
- Someone ceasing to be a PSC – for example, they sell some of their shares so that they now hold 25% or less of the company's shares or voting rights
- The emergence of a new PSC – for example, if someone buys shares in the company and their ownership exceeds 25% of the company's share capital for the first time
- The nature of an existing PSC's control over the company changes – for example, they move between different shareholding "tiers" by buying or selling shares

These changes must be notified to Companies House within 14 days of updating the register. It is important to remember that any details relating to an individual must be confirmed with that individual before updating the register and notifying Companies House (again there are time limits for doing this):

Failure to follow the requirements is a criminal offence which can lead to a fine or prison sentence of up to two years.

Companies are also required to report changes to specified statements should they cease to be true or become true. For example with regard to compiling details for the PSC, where there are no identified people with significant control of the company, a statement must be issued to Companies House to confirm this. Should this change at all, for example where a person acquires more than a 25% interest in the company, then that person's details must be entered in to the register and Companies House must be notified that the original statement has ceased to be true, along with details of the new PSC.

Changes to the PSC register must be reported using forms PSC01 to PSC09, there are equivalent forms for Limited Liability partnerships to use to notify PSC changes.

Employers' Insurance:

Most employers are required to have at least £5 million of employers' liability cover, or face a fine of up to £2,500 per day. There are some exceptions to this rule, however: most public organisations and businesses that only employ close family members (as long as they're not incorporated as limited companies) don't necessarily need to have employers' liability insurance.

Do I need employers' liability insurance for subcontractors?
This depends on whether you're hiring 'labour-only' or 'bona-fide' subcontractors. Subcontractors who are 'labour-only' work under your direction and use your tools and materials. They are legally considered employees, and so they need to be covered by your employers' liability policy. On the other hand, subcontractors who are 'bona-fide' work under their own direction and provide their own tools and materials, and they usually don't need to be covered by your employers' liability policy.

Do I need employers' liability insurance if I am self employed?
If you're self-employed and you work on your own, there's no need to have an employers' liability policy (unless a contract requires you to have one). You usually only need it if you employ somebody else. There are other business insurance covers that could be useful for you, for example professional indemnity insurance or public liability insurance.

Do I need employers' liability insurance for contractors?
According to advice provided by the Health and Safety Executive (HSE), you may not need employers' liability insurance if you're hiring an independent contractor

who also works for other organisations. This can be a complicated area, so it's best to seek advice if you're not sure.

Do I need employers liability insurance for a limited company?
If you run a limited company and you employ one or more people, or have more than one director, you need employers' liability insurance. Even if you've only got close family members on your staff, the fact that your company is incorporated as a limited company means that you're still required to have a policy.

Do I need employers' liability insurance for part-time workers?
Yes, you do need employers' liability insurance for part-time workers. Unless you fall under one of the exemptions, it's compulsory to have employers' liability insurance if you have any employees, even if they're part-time or temporary.

Do I need employers' liability insurance for volunteers?
If you've already got employers' liability insurance in place, it's likely that anyone who volunteers for you will be covered by this policy, although you should double check with your insurer. If you don't have an existing policy, it's probably a good idea to get one so that you're covered in case one of your volunteers makes a compensation claim against you.

R&D Tax Relief for your Company:

Many businesses carry out research and development without realising they could be eligible. If your company has sought to develop technologies, processes or manufacturing techniques which its competitors do not have, it's worth exploring whether an R&D claim is possible.

When a company makes a claim for R&D expenditure HMRC will normally require evidence in support of the claim. A well written report, explaining why a project qualifies for R&D enhanced tax relief is the key to a successful claim.

May Deadline for Data Protection:

Major changes in the rules governing how businesses manage personal data take effect this May. It is essential you are familiar with the new requirements.

The EU General Data Protection Regulation (GDPR) comes into effect on 25 May 2018 and will replace existing data protection rules. Although this is EU law, the government has said it will remain in force after Brexit.

The GDPR gives individuals – including customers and employees – greater control of their personal data held by businesses and other organisations. Businesses will need explicit consent to hold, and share, a person's data in electronic format. A new right to data portability will allow individuals to move, copy or transfer personal data from one IT environment to another. Your business must therefore be able to identify all of an individual's data, and make it available in a structured, accessible form, such as CSV files. Subject to various conditions, individuals will also have the right to: be informed how their data will be used; have their data corrected or deleted; restrict or object to processing of their data; and object to automated decision making.

By 25 May you need to know what data you are holding and why. In particular organisations must:

- Ensure that employees are fully informed about the uses being made of their personal data, and that HR staff have training in the new rules.
- Delete all information about employees and customers they no longer need.
- Only collect and process personal data they legitimately need for identified purposes.
- Update their procedures for managing access requests by data subject.

Don't delay: the penalty for getting it wrong after 25 May could be up to €20 million or 4% of worldwide turnover – whichever is the higher.

Community Amateur Sports Clubs:

There is one scheme in particular, involving registration for Community Amateur Sports Club (CASC) status, which can be of benefit to local clubs up and running since 2002. The scheme is sometimes compared with having charitable status. It enables clubs to take advantage of a number of different tax reliefs, including Gift Aid on gifts from individuals. Other benefits include exemption from tax on bank interest, capital gains, trading profits where the club's yearly trading turnover is below £50,000, and rental income if below £30,000 per annum. CASCs are dissimilar from charities, though, when it comes to VAT. There are no specific VAT reliefs for CASCs, so CASCs are not eligible for charity VAT reliefs on the purchase of goods and services.

It is essential that participating clubs appreciate the considerable number of terms and conditions involved in the scheme. HMRC publish extensive guidance, which can be found here goo.gl/NB5Ufk

Applying for CASC status

There are conditions for joining the scheme, and clubs will need to provide a suitable governing document.

To be eligible, a club must:

- be open to the whole community
- be organised on an amateur basis
- have as its main purpose the provision of facilities for, and the promotion of participation in, one or more eligible sports
- not exceed a specific income limit
- meet a specific management condition
- meet a specific location condition.

CASC status is meant to be permanent. De-registration is not an option (unless the club is subsequently incorporated), and an application once made can't be withdrawn. However, if a club no longer meets the eligibility criteria, it may be de-registered by HMRC.

Increased Limits for Knowledge-Intensive Companies:

The government has legislated to encourage more investment in knowledge-intensive companies under the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs). From 6 April 2018, the measures:

- double the limit on the amount an individual may invest under the EIS in a tax year to £2 million from the current limit of £1 million, provided any amount over £1 million is invested in one or more knowledge-intensive companies
- raise the annual investment limit for knowledge-intensive companies receiving investments under the EIS and from VCTs to £10 million from the current limit of £5 million. The lifetime limit will remain the same at £20 million
- allow knowledge-intensive companies to use the date when their annual turnover first exceeds £200,000 in determining the start of the initial investing period under the permitted maximum age rules, instead of the date of the first commercial sale.

This measure is subject to normal state aid rules.

Cash Basis for Unincorporated Businesses:

The government extended the limited cash basis option for the self-employed and trading partnerships. The cash receipts threshold for being able to move to the cash basis increased to £150,000 and the threshold for having to move back to the accruals basis increased to £300,000 both from April 2017.

Currently, the rules for the calculation of profits under cash basis accounting do not allow a deduction for expenditure of a capital nature, unless that expenditure qualifies for plant and machinery capital allowances under ordinary tax rules. This results in taxpayers needing to consider whether items are capital in nature, and whether they qualify for capital allowances. New rules will be introduced that list types of expenditure which will or will not be allowed as a tax deduction. This will come into effect from the 2017/18 tax year.

Cash Basis for Unincorporated Landlords:

The default basis for landlords' accounts.

Traders have been able to prepare their accounts using the cash basis since April 2013, as long as they meet certain eligibility conditions.

This option was extended to landlords running unincorporated property businesses from 6 April 2017.

However, while traders must elect for the cash basis, it applies by default to landlords who meet the qualifying conditions.

Consequently, if they do not want to prepare accounts using the cash basis they must elect for it not to apply.

The cash basis doesn't apply to:

- incorporated businesses that must continue to prepare accounts on an accruals basis
- landlords whose annual rental income exceeds £150,000.

Cash basis v accruals basis

Preparing accounts under the cash basis is much simpler than under the accruals basis – the cash basis simply takes account of money in and money out.

Sales are taken into account in the accounting period in which payment is received and expenditure is deducted.

By contrast, under the more usual accruals basis required under generally accepted accounting practice (GAAP), income and expenditure is matched in the period the income was earned or the expenditure incurred.

This means it's necessary to recognise money owed and owing (debtors and creditors) and expenditure relating to different accounting periods (prepayments and accruals).

The accruals basis is sometimes referred to as the earnings basis.

Indexation Changes Hit Company Capital Gains:

Property owning companies are likely to face a significant increase to their future tax liabilities because indexation is being frozen at December 2017.

Indexation provides a relief against inflation by effectively increasing allowable expenditure in line with the Retail Price Index (RPI). The indexation freeze comes when inflation is rising, with the December RPI showing a 4.1% increase for 2017. Although the rate of corporation tax itself is to be reduced to 17% in 2020, this may not compensate for the change.

It is important to emphasise that indexation relief is just being frozen, not abolished as it was for individuals and trusts. It will apply to all assets a company acquired before December 2017.

For assets acquired earlier with a disposal date of January 2018 or later, you will be able to calculate the indexation relief based on the RPI index figure for the date you acquired the asset and the December 2017 indexation figure. Although indexation is given for corporate capital gains generally, its freezing will be particularly felt as regards property sales.
Many buy-to-let investors have moved their properties into a company structure in response to the government's crackdown on tax relief for finance costs. For example, if a company has purchased buy-to-let property costing £300,000 in 2018 and sells it in five years' time, assuming an RPI increase of 20% over that period, it will have lost the benefit of indexation of £60,000. At a tax rate of 17%, the extra tax will be £10,200.

IR35 Reforms Coming to the Private Sector:

The government is planning to consult on extending the public sector off-payroll working rules to the private sector.

In April 2017, there were major changes to the way in which IR35 applies where a contractor provides their services to a public sector body client through an intermediary:

- Status determination – the responsibility for determining IR35 status shifted from the contractor to the client. The client is likely to take a risk-adverse approach and set the IR35 status even before advertising a contract.
- Tax deduction – if the client decides that IR35 applies, the contractor is taxed as if they were an employee, and will be subject to PAYE and NICs.

Even though a public sector contractor can be taxed as an employee, their employment status does not change and they do not receive the rights and benefits that go with employment. Not surprisingly, the change has been extremely unpopular, and many contractors have decided to stop working in the public sector or to increase their fees to cover the additional tax costs.

A recent survey reported that 80% of IT projects in the public sector are suffering delays because of the IR35 changes. In the November 2017 Budget, the government announced that it would carry out a consultation on how to tackle IR35 non-compliance in the private sector. A possible next step is the extension of public sector reforms to the private sector.

Business Rates:

Business rates have been devolved to Scotland, Northern Ireland and Wales. The business rates revaluation in England currently takes place every five years. In the Autumn Budget, the government announced an increase in the frequency of valuations to every three years following the next revaluation. The Chancellor has now announced that the next revaluation will be brought forward by one year to 2021. It will be based on market value rentals at 1 April 2019.

You should soon receive a notice of your new business rates for 2018-19. You may qualify for business rates relief such as relief for small business premises, small pubs, essential services in a rural area, agricultural or religious buildings, and buildings used by charities or by start-ups in enterprise zones. If the business rates relief hasn't been given where it is due, you should contact the local authority which issued the rates bill.

If the rateable value of your property seems to be wrong, then you can appeal to the Valuation Office Agency, which is a branch of HMRC.

VAT:

VAT Registration & De-Registration Thresholds:

The VAT registration and deregistration thresholds will be frozen for two years from 1 April 2018, with the registration threshold remaining at £85,000 and deregistration at £83,000. This is in response to the report on VAT simplification published by the Office of Tax Simplification which focused on the cliff edge nature of the registration threshold. The government will consult on VAT thresholds over the next two years.

A business with a turnover of £84,000 which is not VAT registered does not have any VAT cost, but a business with a turnover of £85,000 faces an annual VAT bill of up to £17,000. At £85,000, the UK's threshold is the highest in Europe, where the average is £20,000. The advantage of this is tax simplification for more than three million small businesses. The drawback is the distortion in competition between businesses that have to charge VAT and those that don't. The threshold is also a major disincentive to expansion for businesses with turnover below £85,000. There is a significant bunching of businesses whose turnover is just below the threshold. They may be restricting their growth by not recruiting an extra employee or taking on an extra contract, or simply not working for a period.

What are the options?

The government report considered a range of options, including:

- A substantial increase to the VAT threshold, for example to £500,000. A nice thought, but a highly unlikely outcome given it would cost at least £3 billion a year.
- A substantial reduction to the threshold, for example to £25,000. This would bring more than a million small businesses within the VAT system and would raise at least £1.5 billion a year. Such a reduction would also act as a way to bring more businesses into HMRC's 'Making Tax Digital' programme, which will initially only be imposed on businesses above the VAT threshold.
- The introduction of a smoothing mechanism. One possibility would be to allow newly registered businesses to use a reduced flat rate. Another option would be for newly registered businesses to retain a proportion of the VAT otherwise payable to HMRC.

The easiest way to pay VAT is to set up a direct debit. This allows HMRC to take the amount due from your business bank account 10 days after the end of the month that follows the VAT quarter. The correct amount of VAT will be collected on time each quarter, if there are sufficient funds in the account, until you cancel the direct debit.

VAT Registration Threshold: Call for Evidence:

The government considers that the current design of the VAT registration threshold may be dis-incentivising small businesses from growing their business and improving their productivity. The Office of Tax Simplification had previously recommended that the government examine the current approach to the VAT threshold.

This call for evidence will explore the effect of the current threshold on small businesses. Different policy options will be considered and whether these options could better incentivise growth.

Comment:

The UK VAT registration threshold of £85,000 is the highest in the EU.

Should I Register or Deregister for VAT:

It's good practice to step back and review your business at least once a year. Ask yourself where you expect your sales to come from in the next twelve months. If your projected annual turnover is less than £83,000 (excluding VAT), you may want to consider cancelling your registration.

To do this, pick a date from which the deregistration will take effect, such as the last day of the month or quarter. This can't be any earlier than the day on which you apply to HMRC to deregister. You won't be able to reclaim VAT on anything you buy after the deregistration date, so it pays to plan the date carefully.

If you have ceased to trade, you can deregister from the day you stopped trading, even if that was before you told HMRC.

If you feel you should either Register or Deregister, please let us know and we can confirm this for you and assist you with this.

VAT Collection:

The government seeks to ensure a level playing field, by removing any unfair advantage overseas businesses may have over UK businesses. HMRC estimates growth in online shopping has resulted in significant losses of VAT. It is estimated that between £1 billion and £1.5 billion was lost in 2015/16. The government introduced packages of measures at both Budget 2016 and Autumn Budget 2017 to tackle the issue of overseas businesses selling goods to UK consumers without paying the correct UK VAT.

In March 2017, HMRC published a call for evidence, seeking views on the feasibility of a 'split payment' collection method for VAT as a further step in preventing this type of non-compliance. A new consultation has been launched on

VAT split payment, which seeks to determine steps that could be undertaken to allow VAT to be extracted from overseas sellers. The thrust of the measure will be to harness new technology in the payments industry to collect VAT on online sales in real time and transfer it directly to HMRC.

There appears to be little immediate impact for businesses which conduct their trade entirely within the UK, but businesses trading internationally could face additional VAT compliance issues.

New Reverse Charge VAT Scheme for Construction Industry:
The construction industry has been targeted by the government on many occasions to reduce the incidences of tax fraud and missing payments. Their latest initiative focuses on VAT, this article explains the impact and what businesses involved with any construction related industries need to be aware of.

Following a consultation programme, a new 'domestic reverse VAT charge' will be introduced whereby the recipient rather than the supplier would account for the VAT due. This was confirmed in the Autumn Budget 2017 and the draft legislation will be unveiled in the spring of 2018.

The policy will operate in exactly the same way as the existing Construction Industry scheme, whereby a supplier's direct taxes are paid directly to HMRC by the customer. In this case, what the reverse VAT charge means in practical terms, is that customers would pay the VAT element of their purchases directly to HMRC, rather than it being collected at a later date through the supplier. It will impact all businesses who make purchases within the construction industry, for example, by using or receiving supplies from sub contractors, and there will be no minimum size threshold for any transactions.

Any business that buys goods and services from the construction industry needs to be aware of the new policy and monitor developments closely. Currently, it is unclear exactly how businesses will be affected, they may be residential landlords for example and receiving services from the construction industry for repairs.

There will be no threshold applicable to the measure to exempt small supplies and no exemption for Flat Rate Scheme users (even though they will effectively have to leave the scheme to be able to recover VAT on the costs). Supplies to an end consumer (either a business or domestic customer) will not be included in the reverse charge scheme.

Overall, this will be a very important change for the construction industry and all businesses using their services. It is likely to result in additional requirements for specialist IT services and training to account for transactions properly and may

also impact cash flow. The reverse charge will also be more complex to implement and track for businesses with multiple VAT rates applicable to their services.

Companies House Scam E-Mails:

Companies House are also still warning people to be suspicious of any unsolicited emails, even if they look like they're from a trusted source. Companies House will never ask you to disclose personal or payment information by e-mail.

If you have any doubt that an email you receive from Companies House is genuine, please do not follow any links, open any attachments, disclose any personal details or respond to it.

Companies House have also confirmed that it will never contact you via e-mail and have advised anyone who receives an e-mail claiming to be from Companies House to:

- not to click on any links or attachments
- forward it to phishing@companieshouse.gov.uk.

and then

- delete it permanently.

Companies House is unable to investigate paper copies of suspicious e-mails / websites so you will need to forward the suspicious e-mails to the e-mail address shown above.

Small Business Financial Decisions – FRS102 or FRS105?

In recent years, many companies have been preparing and filing 'small company accounts' under the Financial Reporting Standard for Small Entities (FRSSE). But now FRSSE has been withdrawn and small companies, or 'micro-entities', have a decision to make.

Small businesses must choose a new accounting standard:
For financial years beginning on or after 1 January 2016, small companies which qualify as 'micro-entities' have had to make a choice:

- to use FRS 102, the same accounting standard as larger UK companies but using a reduced disclosure regime (section 1A), or
- to apply FRS 105, an alternative standard.

At a glance, FRS 102 introduces some significant accounting challenges including more widespread use of 'fair value' accounting. Whilst this could make FRS 105 seem more appealing, it may not be the best choice for the company.

Is your business a micro-entity?
To be classed as a micro-entity a company must meet two of the three size limits for two consecutive years. The limits are: turnover of £632,000; total assets of £316,000, and 10 or fewer employees (average over the year).

Certain financial services firms – such as credit institutions and insurers, and also charities – are excluded from qualifying. There are also special rules if the company is part of a group.

Simplified accounts:
Accounts prepared under FRS 105 need only to consist of a simplified Profit & Loss Account, a Balance Sheet and two notes to the accounts. Note: the accounts filed at Companies House do not need to include the Profit & Loss Account.

Company law assumes that micro-entity accounts prepared in this way give a true and fair view. As such, the company does not need to add any further disclosure. If the reduced disclosure regime under FRS 102 is chosen, extra disclosure may be required to ensure the accounts give a true and fair view.

Simpler accounting:
For accounting purposes, FRS 105 is simpler than FRS 102. Of the numerous differences between the two standards, the three most significant are likely to be:

Revaluation/fair value of assets:
This is not permitted under FRS 105. FRS 102 allows (and sometimes requires) some assets to be assessed at fair value annually.

Not having to obtain regular fair values could be more convenient and less costly for the business. However, if the company is currently re-valuing properties, and has significant loans and debts against these properties, using FRS 105 would require them to re-value them at 'depreciated cost'. This could reduce the value of the balance sheet significantly.

Fewer intangible assets:
Fewer intangible assets are recognised under FRS105. As an example, if the company acquires a business, the purchase price is divided between tangible assets and liabilities, and goodwill. The company would not need to identify separate individual intangible assets, such as customer lists and brand names. Internally-generated intangibles like development costs can also therefore not be treated as assets. Instead, costs such as these must be expensed through profits as incurred.

No more deferred tax:
FRS 105 does not allow companies to recognise deferred tax whilst FRS 102 includes deferred tax more frequently than previously.

Still undecided?
Micro-entity accounts mean that less financial detail is available about the company at Companies House and in the public domain. This could be considered an advantage by Directors but we are waiting to see if this lack of information has a negative effect on company credit-ratings or the ability to obtain finance. In addition, company shareholders will also be less well informed by their members' accounts.

Company accounts can, of course, include more information than the statutory minimum. To ensure that directors have enough financial detail to make informed decisions in running the business, we can provide extra analysis of the company's position.

We want to ensure that directors are prepared and informed about the accounting choices for the company. To discuss Financial Reporting Standards for your business, please contact us.

Don't 'Err' in your Claim:

Entrepreneurs' Relief (ER) has been with us for many years and provides a valuable relief – only a 10% rate of capital gains tax on lifetime gains of up to £10 million. However, as with everything in the world of tax, there are always niceties to be observed in order to ensure that you qualify for ER.

HMRC have been criticised by Parliament for not checking enough ER claims and it appears that HMRC are now examining claims more closely. The main area which HMRC seem to be focusing on is ER claims on share disposals. Briefly, ER will apply to gains on disposals of shares in a trading company (or the holding company of a trading group) provided that the individual making the disposal:
has been an officer or employee of the company, or of a company in the same group of companies, and owns at least 5% of the ordinary share capital of the company and that holding enables the individual to exercise at least 5% of the voting rights in that company. These two conditions must be satisfied throughout the year leading up to the disposal of the shares.

Two recent Tax Tribunal cases illustrate the dangers of failing to meet these criteria. In the first, the company concerned was formed in 1995 and the taxpayer was one of the founding shareholders and directors. In 2009 it was agreed that the company would purchase the majority of the taxpayer's shares. Provided certain conditions are satisfied such a transaction will be treated as equivalent to a sale of the shares by the shareholder and thus be treated as a capital gain.

It was also agreed that the taxpayer's employment would be terminated and that he would resign as a director. In May 2009 a general meeting approved the share buy-back. However, all the documents suggested that the employment had terminated as at February 2009. After opening an enquiry HMRC concluded that the taxpayer was not, throughout the period of one year ending with the disposal of his shareholding, either an officer or employee of the company and this was upheld by the Tribunal.

In the second case, two couples owned a company equally. The couples concerned owned 33% of the shares, with the balance being retained by the company, so at this stage they clearly met the 5% test. However, the problem arose when a loan of £30,000 by the other shareholders was converted into 30,000 new shares.

HMRC argued that the taxpayers had not, throughout the period of one year ending with the date of the share sale, held at least 5% of the ordinary share capital of the company. This was because during part of that one year period, the ordinary share capital had included the 30,000 new shares, so that each of the

taxpayers had held only 33 of 30,033 £1 shares - far less than the 5% of the ordinary share capital required by the ER legislation.

The Tribunal was persuaded that the new shares were not 'ordinary share capital' and so the taxpayers were not caught by the 5% rule. However, HMRC do not agree and have appealed the case to a higher court.

Of course, if either of the above problems are identified pre-sale, a further 'clean' 12-month period can be completed but, in reality, this may be easier said than done. ER is important to many but if you are unsure as to your current position or are contemplating a disposal in the near future, please do get in touch so that we can check you qualify.

A TARR which is not so Targeted:

For many owner-managers, the proceeds that they receive from the winding up of a company will be treated as a capital gain. Assuming that the relevant tests are met, this gain will usually qualify for Entrepreneurs' Relief and a rate of 10% tax.

There have been anti-avoidance rules in place for many years which seek to prevent the serial winding up of companies by overriding the capital gains rules and treating the proceeds as a dividend, subject to income tax of up to 38.1%.

The government has decided to strengthen these anti-avoidance rules by introducing a new Targeted Anti-Avoidance Rule (TAAR) which applies to certain company distributions in respect of share capital in a winding up. This TAAR treats the distribution from a winding-up as if it were a dividend chargeable to income tax, where certain conditions are met, for distributions made on or after 6 April 2016.

The new rules potentially apply to shareholders in a company controlled by five or fewer shareholders when it is wound up if:

- broadly, within a period of two years beginning with the date on which a distribution is made, the individual is involved with carrying on a trade or activity which is the same as, or similar to, that carried on by the company that it is reasonable to assume, having regard to all the circumstances,
- that the main purpose, or one of the main purposes, of the winding up is the reduction of a charge to income tax.

The first point above can be easily avoided by not becoming involved in a similar sort of business for at least two years. The second, unfortunately, is very subjective, especially when HMRC can use the benefit of hindsight.

HMRC have given a few examples to illustrate how the rules may work and have promised more to come.

Example 1
Mr A has been the sole shareholder of a company which has carried on the trade of landscape gardening for ten years. Mr A decides to wind up the business and retire. He liquidates the company and receives a distribution in a winding up. To subsidise his pension, Mr A continues to do a small amount of gardening in his local village.

Gardening is, of course, a similar trade or activity to landscape gardening. However, when viewed as a whole, these arrangements do not appear to have tax as a main purpose. It is natural for Mr A to have wound up his company because it is no longer needed once the trade has ceased. Although Mr A continues to do some gardening, there is no reason why he would need a company for this, and it does not seem that he set the company up, wound it up and then continued a trade all with a view to receive the profits as capital rather than income.

Example 2
Mrs B is an IT contractor. Whenever she receives a new contract, she sets up a limited company to carry out that contract. When the work is completed and the client has paid, Mrs B winds up the company and receives the profits as capital.

Mrs B has a new company which carries on the same or a similar trade to the previously wound up company and it looks like there is a main purpose of obtaining a tax advantage. All of the contracts could have been operated through the same company, and apart from the tax savings it would seem that would have been the most sensible option for Mrs B. In these circumstances a distribution after 5 April 2016 will be treated as a dividend and subject to income tax.

The rules could create an additional tax bill of 28.1% on £10 million,

National Insurance:

Class 2 National Insurance - Not Quite the End of The Road:
The government has announced that plans to abolish Class 2 National Insurance Contributions (NIC) are being put off for 12 months. Class 2 payments will now continue until 6 April 2019, rather than ending on 6 April 2018. The delay will enable the government to look again at what abolishing Class 2 will mean for just under one million self-employed people whose profits fall below the 'small profits threshold.' This threshold is set at £6,025 per annum for the tax year 2017/18, rising to £6,205 in 2018/19. Those with earnings below this level can at present

choose to pay Class 2 in order to maintain a NIC contributions record, and there are concerns that if this option is removed, saving for a State Pension may become less affordable.

Welcoming a possible rethink, the Chair of the Low Incomes Tax Reform Group commented, 'The abolition of Class 2 NICs will be a significant change to how people contribute to qualify for certain benefits and the State Pension.'

Class 4 National Insurance U-Turn:

One of the significant announcements Chancellor Philip Hammond made on Budget Day was the proposed increases to the main rate of Class 4 National Insurance Contributions (NICs) paid by self-employed individuals from 9% to 10% from April 2018 with a further increase planned from 10% to 11% from April 2019.

The Chancellor has subsequently announced that the government will not now proceed with the proposed increase in Class 4 NICs rates . Self-employed individuals currently pay Class 2 and Class 4 NICs.

Employees:

Employees are liable to pay Class 1 NICs on their earnings. In addition a further secondary contribution is due from the employer.

For 2018/19 employee contributions are only due when earnings exceed a 'primary threshold' of £162 per week. The amount payable is 12% of the earnings above £162 up to earnings of £892 a week, the Upper Earnings Limit (UEL). In addition there is a further 2% charge on weekly earnings above the UEL. Secondary contributions are due from the employer of 13.8% of earnings above the 'secondary threshold' of £157 per week. There is no upper limit on the employer's payments.

Employer NICs for the under 21s:

Employer NICs for those under the age of 21 are reduced from the normal rate of 13.8% to 0%. For the 0% rate to apply the employee will need to be under 21 when the earnings are paid.

This exemption will not apply to earnings above the Upper Secondary Threshold (UST) in a pay period. The UST is set at the same amount as the UEL, which is the amount at which employees' NICs fall from 12% to 2%. The weekly UST is £892 a week for 2018/19. Employers will be liable to 13.8% NICs beyond this limit. The employee will still be liable to pay employee NICs.

NIC for apprentices under 25:

From 6 April 2016 employer NICs are 0% for apprentices under 25 who earn less than the upper secondary threshold (UST) which is £892 per week and £46,350 per annum for 2018/19. Employers are liable to 13.8% NIC on pay above the UST. Employee NICs are payable as normal.

An apprentice needs to:

- be working towards a government recognised apprenticeship in the UK which follows a government approved framework/standard
- have a written agreement, giving the government recognised apprentice framework or standard, with a start and expected completion date.

Employers need to identify relevant apprentices and generally assign them NIC category letter H to ensure the correct NICs are collected.

Employers need to ensure they amend the contributions letter when the apprenticeship ends or the employee turns 25.

National Insurance Rates:

The HMRC have increased the NI thresholds for the 2018/19 tax year as follows:-

Class 1 £162.00 p.w

Class 2 £2.95 p.w.

Class 4 £8,424 p.a.

The chargeable rates are as follows:-

Class 1 12% for Employee 13.8% for Employer

Class 4 £8,424 - £46,350 at 9%
£46,351 - Uncapped at 2%

Employment Allowance:

The Employment Allowance is again available for the 2018/19 tax year, and employers will again be able to claim the £3,000, which is available to many employers for them to offset against their Class 1 National Insurance liability.

This amount is claimed as part of your normal payroll process on a month to month basis. There are some exceptions to this scheme, for example covering nannies and household staff, and anyone under IR35 for personal service companies. Revenue has advised that there are still employers which have not claimed this benefit for the 2017/18 tax year. Unless you have employees, who earn of a level so that you pay Employers National Insurance Contributions on top of their salaries, then this allowance will not be of any benefit to you.

We have ensured that this benefit has been claimed by all our payroll clients, however, if you prepare your own payroll and are unsure if you have claimed, please get in touch and we will check for you.

Please be aware though, that HMRC are actively monitoring National Insurance Employment Allowance compliance following reports of some businesses using avoidance schemes to avoid paying the correct amount of NICs. The government will consider taking further action in the event that this avoidance continues.

Attention Director-Shareholders - Profit Extraction Issues:

A key advantage of trading as a company is that the owners, who are generally both shareholders and directors, only suffer tax and NIC on any profits extracted from the company, so any profits retained in the company are sheltered from personal tax rates. If funds are required to reinvest into the business or to repay debt, the only immediate tax hit is the corporation tax charge of 20%.

However, we all need funds for our personal outgoings so there will be another level of taxation when the profits are extracted won't there? This is where planning comes into play. Dividends are often used in combination with remuneration to obtain the most tax effective extraction of profits when the business is carried on through a company. For many years it has been attractive to pay a small salary to allow the tax efficient use of the personal allowance, to provide a corporation tax deduction for the company but not to pay NIC. This means a salary of £8,060 in 2016/17, corresponding to the primary NIC threshold. The payment of this level of salary also provides a qualifying year entitlement to the state pension.

When the new tax regime for dividends is introduced on 6 April 2017 many director-shareholders will find that the tax bill on the dividends will be higher than is the case for the 2015/16 tax year. So does this change the strategy of low salary and the balance as dividends?

We now have draft legislation for the new regime which explains the finer points of the proposals and how the new £5,000 Dividend Allowance interacts with other tax rates. The Dividend Allowance does not change the amount of income that is brought into the income tax computation. Instead it charges the first £5,000 of dividend income at 0% tax - the dividend nil rate. This means that:

- the payment of low salary below the personal allowance will allow some dividends to escape tax as they are covered by the personal allowance
- the £5,000 allowance effectively reduces the available basic rate band for the rest of the dividend.

The practical effect of the new regime is that a strategy of low salary and the balance of income requirements taken as dividends will still be a tax efficient route for profit extraction for many director-shareholders. However, many will be paying more income tax.

Please do talk to us about the best strategy for Director-Shareholders in the new era of the taxation of dividends.

Paying Dividends:

Dividend payment is a primary vehicle to extract cash from owner-managed businesses, but it's an area coming increasingly under HMRC's spotlight. Mistakes in procedure can have expensive tax consequences – so how do you get it right? The legal position, reference Company Law (S830 Companies Act 2006) says that a company is only entitled to make distributions out of profits available for the purpose. It defines this as accumulated realised profits minus accumulated realised losses. The Act also requires that a dividend is supported by relevant accounts demonstrating that profits are available for distribution. For a year-end dividend, the statutory accounts are likely to be the relevant accounts, but what is the position for interim dividends? Here directors may be called upon to make what the law calls 'reasonable judgment' of the current financial position of the company, and its ability to meet debts as they fall due. Directors need to take this responsibility very seriously. Where shareholders receive a dividend, knowing at the time that there were not sufficient reserves available, they can become liable to make repayment: company directors may also become personally liable. To pay a dividend lawfully, follow correct procedure. Good practice would suggest a

directors' meeting to consider the accounts and declare the dividend; ensuring that this is minuted; and preparing a dividend voucher contemporaneously. Some individuals and companies have lost at tax tribunals for neglecting points like these. A tribunal remarked in one case: 'There had not been any directors' meetings at, or resolutions in, which any of these amounts had been declared as dividends.' The tribunal held that the amounts were, in consequence, not dividends but earnings. Thus HMRC were entitled to recover PAYE income tax and National Insurance from the directors personally. HMRC are becoming more vigilant here, particularly where insolvencies are involved. For advice on the payment of dividends, or to discuss remuneration strategies more generally, please do get in touch.

Soft Drinks Levy:

The sugar tax legislation has been approved through the Finance Bill 2017.

Two draft statutory instruments have been released for consultation and are now undergoing final amendments;

- The Soft Drinks Industry Levy Regulations 2017 set out, in detail, the scope and operation of the levy
- The Soft Drinks Industry Levy (Enforcement) Regulations 2017 will provide HMRC with specific enforcement and compliance powers

Liable drinks

A drink is liable if it meets all the following conditions:

- It has a content of 1.2% alcohol by volume or less
- It's either ready to drink, or to be drunk it must be diluted with water, mixed with crushed ice or processed to make crushed ice, mixed with carbon dioxide or a combination of these
- It's packaged ready for sale

- It has had sugar added during production, including pure cane sugars like sucrose and glucose as well as substances (other than fruit juice, vegetable juice and milk) that contain sugar, such as honey
- It contains at least 5 grams (g) of sugar per 100 millilitres (ml) in its ready to drink or diluted form

<u>Who has to register?</u>
Your business must register if you:

- Have produced more than one million litres of liable drink in the last 12 calendar months for your own brand or brands you have the rights to manufacture
- Bottle, can or otherwise package liable drinks for someone else
- Bring liable drinks into the UK from anywhere else, including the Isle of Man and Channel Islands

You must keep copies of invoices and other sales documents.

If you produce less than one million litres of liable drink…
You are a small producer and don't need to register if all the following apply:

- You only package your own liable drinks
- You have produced less than one million litres of liable drink in the last 12 calendar months
- You won't produce more than one million litres in the next 30 days

<u>Report and Pay:</u>
Affected businesses will be able to register online from January 2018.

When a drink becomes liable for the levy, you will need to report it to HM Revenue and Customs (HMRC) in a quarterly return and pay the levy due. These will be fixed quarterly returns ending June, September, December and March. First returns are due in July 2018.

<u>How much will you pay?</u>
The amount you pay depends on the total sugar content of the drink. You will pay:

- 18p per litre if the drink has 5g of sugar or more per 100ml
- 24p per litre if the drink has 8g of sugar or more per 100ml

<u>Coca-Cola and Iron-Bru – taking the fizz out of pop!</u>
Two leading drinks manufacturers have gone down different paths regarding to how they plan to deal with the levy. Coca-Cola is to use smaller bottles and sell at higher prices rather than alter its famous sugar-laden secret recipe, while Iron-Bru will bring in a new lower sugar version of their drink with 4 teaspoons of sugar instead of 8 and a half – making it exempt from the tax!

Either of the above is an option of course, although Coca-Cola are likely to be able to absorb the cost of the levy by re-negotiating prices with retailers – unfortunately not all drinks manufacturers will have this kind of clout. It may be, that in these health-conscious times, re-branding drinks as 'healthy low sugar' options is the best way to keep sales bolstered whilst avoiding the levy altogether. The other thing to bear in mind is that this may be the precursor to further levies the government may wish to introduce to fight obesity, perhaps moving onto cakes and confectionery! The push for less sugar in our diet is here to stay and this is likely to be the first course of tax rises (so to speak).

Reactive Tax Codes:

As from April 2017 HMRC have been updating tax codes more frequently. This will help HMRC collect the tax due more quickly. Any underpayments of tax identified for 2017/18 and not collected in that year, will be collected through the 2018/19 tax codes. But the same tax codes will also be used to collect potential tax underpayments for 2018/19. As a result, the employee could again experience a double hit on their 2018/19 PAYE code, and pay more tax in that year. However, no employee should have more than 50% of their earnings deducted through PAYE.

As an employer, you will have to deal with more PAYE codes being issued for your employees, and it will be important to keep up with those changes. Employees should be advised to contact HMRC directly if they don't agree with their tax code.

2017/18 PAYE Year End Dates:

5th April — End of current tax year. Full Payment Submission (FPS) with year-end PAYE information must be made under Real Time Information (RTI) in place of form P35, which is no longer required.

6th April — New Tax Year Starts.

19th April — Final submission must be made to HMRC under RTI for the year. Deadline for postal payments remittance of PAYE, NICs and CIS to HMRC.

22nd April — Deadline for electronic payments to be cleared by HMRC for previous tax year

31st May — P60's to be given to all employees.

6th July — P11d's to be filed with HMRC

19th July — Class 1 A payment to reach HMRC (postal). Deadline for postal payments remittance of PAYE, NICs and CIS to HMRC.

22nd July — Class 1 A payment to reach HMRC (electronic)

Increases to National Minimum Wage / Living Wage & Penalties:

In the biggest rise in National minimum Wage (NMW) rates for those under 25 for a decade, new rates apply from 1st April 2018.

The hourly rates for the NMW & NLW from 1st April 2018 are:

Age	*Rate £*
25 and over	*7.83*
21 to 24	7.38
18 to 20	5.90
16 to 17	4.20
Apprentice	3.70 *

* for apprentices under 19, or 19 or over in the first year of their apprenticeship. 18-21 and 21-24 year olds see increases of 4.7% and 5.4% respectively. There is also a 4.4% increase in the National living Wage (NLW) from those aged 25 and over.

NMW and NLW vary depending on age and whether or not a worker is an apprentice.

The National Minimum Wage (NMW) keeps appearing in the headlines. Recently the Department for Business, Energy and Industrial Strategy (BEIS) announced that some 230 employers had been named and shamed for failing to pay NMW and National Living Wage (NLW). The retail, hairdressing and hospitality sectors were among the most non-compliant. Because of BEIS intervention, more than 13,000 low-paid employees were due to receive £2 million in back pay.

But the final price tag for employers who hadn't kept the rules was much higher. Between them, they were also fined a record £1.9 million. Business Minister Margot James said there was a clear message to employers. 'The government will come down hard on those who break the law.'
BEIS report that common employer errors include deducting money from employees to pay for uniforms, not accounting for overtime and wrongly paying apprentice rates to workers.

There are NO exceptions from paying the NMW on the ground of the size of the business.

National Minimum Wage and Directors:

The national minimum wage (NMW) rates rise on 1 April 2018. Are you certain you know what pay rise you must give to employees and whether the directors should be included in those calculations?

The five NMW rates depend on each employee's age and whether they are on an approved apprenticeship scheme. The top rate for those aged 25 and over will rise from £7.50 to £7.83, up 4.4%.

Most directors of their own companies do not have to pay themselves the NMW. This is the case where the director does not have a contract of employment with the company and is effectively paid only for their role as an office holder.

Where the director does have an employment contract with the company, they will be treated as an employee for NMW purposes and the NMW should be paid for all the hours they work.

In a company which has a number of employees, good employment practice would be to require everyone to abide by the terms and conditions set out in the employment handbook and to sign a declaration on that basis. Where the handbook sets out all the conditions, rights, responsibilities and duties of both employer and employee, the declaration will amount to an employment contract, so directors who sign it will have an employment contract.

If the company comes under scrutiny for NMW, HMRC will want to examine the calculation of pay for everyone on the payroll, including directors. The penalty for failing to pay the correct amount can be up to £20,000 per employee. The business will be included on the name and shame list of employers where the total underpayment of NMW is £100 or more, across the whole payroll.

National Minimum Wage in the Social Care Sector:

Employers in the social care sector have had mixed signals from HMRC about payment of National Minimum Wage (NMW) for workers carrying out sleep-in shifts – although the headline news is that NMW is payable here.

HMRC have set up a new compliance scheme, the Social Care Compliance Scheme (SCCS), from 1 November 2017. Employers enter on an opt-in basis – 'at HMRC's discretion.' They can use SCCS to 'self review,' identifying and paying any arrears for sleep-in shifts. The scheme allows 12 months for self-review, and a further three months to pay arrears. The deadline to join is 31 December 2018, and the

scheme ends on 31 March 2019, which is the final deadline for payment of all arrears.

The benefit of the scheme is that employers using it will not then be liable for penalties, (200% of the amount owed, up to a maximum of £20,000 per worker) or naming and shaming over NMW underpayment. Employers who don't opt in will be subject to normal enforcement procedures, and will not be able to access these concessions. They could then be liable to penalties, potential prosecution, and naming. They are however not liable for penalties for arrears accrued before 26 July 2017.

Paying Your Children From the Business:

You can pay your son or daughter out of your business, but they must do some real work for that money, work which is worth what you pay them. You can't pay over the odds for an office assistant, just because the worker is your relative.

The works need not be performed at your business premises. Skills which could be used to promote your business online or to design marketing materials could be applied remotely, perhaps while they are away at university. However, you need to be able to prove that adequate work was performed for the rewards.

Where work is done in between studying and is not supervised, there needs to be an accurate record such as a timesheet. Alternatively, the individual could be paid according to output, such as for every leaflet designed or each customer query answered.

There are rules on how many hours a child under sixteen is legally allowed to work, during school term time and during the holidays. Where the pay is more than £113 per week, you must put it through the payroll, just as you would for any other employee.

Holiday Entitlement:

This is still a very hot topic, and the key points to note are:

- Most workers are legally entitled to 5.6 weeks paid holiday per year (this is known as statutory entitlement).
- Part-time workers are entitled to the same amount of holiday (pro rota) as full time colleagues.
- Employers can set the times when workers can take their leave - for example a Christmas shut down.
- If employment ends workers have the right to be paid for any leave due but not taken.
- There is no legal right to paid public holidays.

Once an employee starts work details of holidays and holiday pay entitlement should be found in the employee's written contract, where there is one, or a written statement of employment particulars given to employees by their employer.

Note: The written statement is required by law and must be given to employees by the employer no later than two months after the start of employment.

Most workers - whether part-time or full-time - are legally entitled to 5.6 weeks of paid annual leave. Additional annual leave may be agreed as part of a worker's contract. A week of leave should allow workers to be away from work for a week - i.e. it should be the same amount of time as the working week. If a worker does a five-day week, he or she is entitled to 28 days leave. However, for a worker who works 6 days a week the statutory entitlement is capped at 28 days. If they work a three-day week, the entitlement is 16.8 days leave. Employers can set the times that workers take their leave, for example for a Christmas shut down. If a worker's employment ends, they have a right to be paid for the leave due and not taken.

When calculating Holiday Pay, don't forget that some overtime pay now must be included in most holiday pay, following an Employment Appeal Tribunal decision in November 2014. Under the previous rules, it was only necessary to take basic pay into account when calculating holiday pay.

This follows an earlier ruling by the Court of Justice of the European Union (CJEU) that holiday pay should include commission and other elements of contractual variable pay such as shift allowances. That case involved a salesman who received a basic salary plus variable commission, which made up about 60% of his total remuneration. He therefore suffered financial hardship as a result of taking a holiday because he could not earn any commission while he was away from

work. The CJEU said that the purpose of holiday pay is to put workers in the position they would have been if they had been at work. The tribunal ruled that holiday pay should include pay for non-guaranteed overtime; this is overtime that an employee must work if asked, but which the employer does not have to offer them. It is not clear whether the ruling covers voluntary overtime – which the employee can refuse.

There is a complication because the decision only applies to the four weeks (20 days) of paid annual leave that employers must provide under the Working Time Directive. Employers are still allowed to make payments at the lower, basic pay rate for the eight days of additional leave required under the Working Time Regulations 1998. This overturned an earlier decision that employees could choose which days would be covered by the Working Time Directive.

Public Holidays

There is no legal right to paid leave for public holidays; any right to paid time off for these holidays depends on the terms of a worker's contract. Paid public holidays can be counted as part of the statutory 5.6 weeks of holiday.

Carrying leave over from one leave year to the next

Workers must take at least 4 weeks of statutory leave during the leave year, they may be able to carry over any remaining time off if their employer agrees. So if a worker gets 28 days of holiday, they may be able to carry over up to 8 days. Workers who receive statutory leave don't have an automatic right to carry leave over to the next holiday year, but employers may agree to it.

Workers who are entitled to contractual leave may be able to carry over time off if the employer agrees, this agreement may be written into the terms and conditions of employment. For example if an employee gets 35 days of leave the employer may allow them to carry over up to 10 days as part of the terms of employment.

When workers are unable to take their leave entitlement because they're already taking time off for different reasons, such as maternity or sick leave, they can carry over some or all of the untaken leave into the next leave year. An employer must allow a worker to carry over a maximum of 4 weeks if the worker is off sick and therefore unable to take their leave.

If an employee chooses not to take statutory annual leave during sick leave, they can carry forward the untaken leave for up to 18 months from the end of the leave year in which the leave arises. This means that if a leave year ends on the 31 December the worker would have 18 months after that date in which to take the annual leave for that year.

More Holiday Rights for Self-Employed Workers:

A recent European Court of Justice (ECJ) ruling concerning holiday pay has highlighted the employment rights of workers who categorise as self-employed. The effect is an extension of those rights, which has potentially costly implications, especially for employers with self-employed workforces.

Payment for accrued leave

Mr King, a commission based salesman, took unpaid holidays of about two weeks a year during the 13 years he worked for Sash Windows, until his dismissal in October 2012. He brought a case to the employment tribunal, which ruled that he was a worker and was entitled to paid leave for the whole of his period with the company under the Working Time Regulations. The matter of payment in lieu of accrued leave not taken was referred to the ECJ. The ECJ decided Mr King was entitled to compensation for statutory holiday leave not taken during the whole of his 13 years' service.

Currently statutory holiday entitlement under the European Working Time Directive – from which the UK Working Time Regulations derive – expires at the end of each leave year. Workers lose the entitlement if they do not take the leave. The government is likely to legislate for the right of workers to carry forward paid annual leave when employers do not put them in a position in which they can take it.

This decision is likely to lead to compensation claims. Employers with self-employed staff may be able to review their terms of engagement to minimise the risk of them being classified as workers.

It may be preferable to grant all workers holiday pay and other employment rights, to avoid compensation claims later.

Unpaid / Paid Leave:

For Expectant Fathers / Partners:

Expectant fathers or partners of pregnant women now have the right to unpaid time off during working hours to accompany their wife or partner to two ante-natal appointments, of up to six and a half hours each. Employers may allow this time off with pay under the terms and conditions of employment, or allow employees to take annual leave, swap shifts or make up time.

The employer is not allowed to ask to see the appointment card, but is entitled to ask the employee to make a declaration stating the date and time of the appointment. Employees can also be asked to state in writing that they qualify through a relationship with the mother or child and that they are taking the time off to accompany the expectant mother to an antenatal appointment made on the advice of a designated healthcare professional.

For Adopters / Surrogacy Parents:

The main adopter will be able to take paid time off for up to 5 adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to 2 appointments.

The right to 2 unpaid antenatal appointments will also extend to those who will become parents though a surrogacy arrangement, if they expect to satisfy the conditions for, and intend to apply for a Parental Order for the child. The rules for Fathers / Partners outlined separately will apply.

Changes to Termination Payments:

Changes from 6 April 2018 were in sight for the tax and National Insurance treatment of termination payments, and particularly payments in lieu of notice (PILONs). But there have been further developments here, and employers need to be aware of the latest government timetable. Many employers will have seen publicity on this issue earlier, and should note the revised timetable which delays the introduction of some changes by a year. When an employment is terminated, tax treatment of payments to employees depends on whether the payment represents earnings or compensation. Compensation payments attract a £30,000 exemption for tax (and are exempt from NIC), whereas earnings don't. But it has been difficult to establish which category some payments fit into – and PILONs have been especially problematic. Where PILONs are made and the employee has a contractual entitlement or strong expectation of receiving one – say if the business is known to make PILONs – these have been treated as earnings, and so do not fall within the exemption. But where there isn't a contractual entitlement, or where payment represents damages for failure to give notice, the exemption has usually applied.

Coming in April 2018 - Change For PILONs:
From 6 April 2018, the way PILONs are taxed is changing. The employer will need to calculate the pay that the employee would have received if employment had carried on throughout the period of notice, the post-employment notice pay (PENP). PENP will always be taxable. It is also subject to Class 1 NIC. Broadly, anything above this will be treated as a compensation payment and attract the 30,000 tax exemption. Calculating PENP is likely to prove challenging.

Postponed to April 2019 – Change to National Insurance Treatment:
Termination payments treated as compensation payments (rather than earnings) at present do not attract NIC. This will continue to be the case until April 2019, when there will be an employer-only NIC charge on any amounts in excess of the £30,000 limit. Note that instead of a start date of 6 April 2018, this will not now take effect until 6 April 2019. Proposals at present suggest that this is likely to be collected in real time via RTI.

Planning employee termination packages can be complex, and we are happy to offer advice.

Silly Taxpayer Excuses from HMRC:-

HMRC have released some unusual excuses from taxpayers who failed to complete their self assessment tax return on time. These include:

1. 'My tax return was on my yacht…which caught fire'
2. 'A wasp in my car caused me to have an accident and my tax return, which was inside, was destroyed'
3. 'My wife helps me with my tax return, but she had a headache for ten days'
4. 'My dog ate my tax return…and all of the reminders'
5. 'I couldn't complete my tax return, because my husband left me and took our accountant with him. I am currently trying to find a new accountant'
6. 'My child scribbled all over the tax return, so I wasn't able to send it back'
7. 'I work for myself, but a colleague borrowed my tax return to photocopy it and lost it'
8. 'My husband told me the deadline was the 31 March'
9. 'My internet connection failed'
10. 'The postman doesn't deliver to my house'

With the self assessment submission deadline of 31 January now past and an automatic penalty of £100 for failing to submit your return on time, please contact us if you need help bringing your affairs up to date.

Corporate Tax Evasion:

Companies and partnerships should be aware that since September 2017, they can be prosecuted if they fail to prevent staff facilitating criminal tax evasion.

They now become liable for failure to prevent employees, agents or others who provide services on their behalf from facilitating criminal tax evasion. Previously liability arose only for senior members of the organisation, such as directors. Please contact us for more information on how we can help you to risk assess and put appropriate measures in place to protect your business.

Corporate Crime:

Fraud is an ever-present danger for any limited company. Have you considered reviewing your company's financial controls?

Twenty years ago, limited companies with a turnover exceeding £350,000 were required to have a statutory audit. This figure has risen over time, with the most recent increase taking it to £10.2m. As a result, for long established small businesses, the annual visit from the auditors is now something of a distant memory. Equally for most more recently established businesses, the statutory audit is not something they have ever considered.

Companies Below the Audit Exemption Threshold:

The drop in accountancy fees and the reduction in the amount of time spent preparing documents for accountants has undoubtedly been appreciated by most limited companies which have been exempted, and for many companies the exemption is wholly appropriate. However with a statutory audit no longer required, few business owners have stopped to consider one of the by-products of an audit, recommendations on how the company's financial controls might be improved. Companies below the exemption threshold may however choose to have an audit, or a more limited scope review akin to an audit, on a voluntary basis.

The Best Line of Defence:

Strong financial controls are the best form of defence against all types of corporate fraud. These controls are vital as soon as a sole owner-manager starts to delegate any part of the financial management of the company to a business partner or to employees. Current areas of particular concern are false email scams, including "false chief-exec fraud", where an email supposedly from the boss requires an urgent payment to a new supplier, who happens to be the fraudster, and frauds committed by a director.

Disclosure of Tax Avoidance Schemes:

The changes from 1 January 2018 and penalties for non-compliance.

For a number of years there have been rules governing the disclosure of tax avoidance schemes. HMRC requires information about the relevant scheme which assists them to:

- get early information about schemes and how they claim to work
- find out quickly who has used a scheme

Two issues that are worth reviewing are the changes in the categories of the schemes from 1 January 2018 and also the penalties surrounding non-disclosure/involvement with such schemes.

What has changed?

There are three different disclosure regimes:

- VAT disclosure regime (VADR)
- Disclosure of Tax Avoidance Schemes: VAT and other indirect taxes (DASVOIT)
- Direct taxes and National Insurance contributions (DOTAS).

The changes relate to the first two categories. From 1 January 2018, DASVOIT came into force. The disclosure regime for VADR now applies to arrangements entered into before 1 January 2018.

DASVOIT applies to arrangements which are used on or after 1 January 2018. However, there is an exclusion from this for arrangements which were marketed or made available by a promoter, or where a promoter knew about arrangements being implemented, before 1 January 2018.

DASVOIT applies to the following taxes, levies and duties (so for most members the emphasis will be on VAT):

- VAT
- Insurance Premium Tax
- General Betting Duty
- Pool Betting Duty
- Remote Gaming Duty
- Machine Games Duty
- Gaming Duty
- Lottery Duty
- Bingo Duty

- Air Passenger Duty
- Hydrocarbon Oils Duty
- Tobacco Products Duty
- duties on spirits, beer, wine, made-wine and cider
- Soft Drinks Industry Levy
- Aggregates Levy
- Landfill Tax
- Climate Change Levy
- customs duties

Who is responsible for disclosure

The main duty to disclose under DASVOIT falls on the promoter of the arrangements. However there are circumstances where the person using the arrangements must disclose. They are:

- if there's a non-UK promoter who hasn't disclosed
- if a lawyer is unable to disclose due to legal professional privilege
- if there is no promoter – for example, it's an in-house scheme

Penalties

There are penalties for failing to disclose any type of scheme and these apply to promoters, employers and users of avoidance schemes.

Just as importantly, there are also penalties for 'enablers' of schemes which are defeated. An 'enabler' is defined as:

- *any person who is responsible, to any extent, for the design, marketing or otherwise facilitating another person to enter into abusive tax arrangements*

This may well include the client's accountant if they are seen to be involved with or advise on a tax scheme. HMRC has issued full guidance on the application of penalties relating to defeated schemes which include examples of when /how various advisers become 'enablers' (see below).

Further information:

HMRC guidance on the tax avoidance scheme changes.

HMRC detailed guidance on the new DASVOIT disclosure scheme.

HMRC guidance on penalties for defeated schemes

Contract of Employment / Written Statement:

If an employment lasts for at least a month, most employees are legally entitled to a written statement of the main terms and conditions of their employment. This should be supplied within two months. While details of sick leave and discipline and grievance procedures may be contained in other documents, the statement itself should be a single document and must contain information such as:

- the name of the employer and employee;
- the date that the employment or the period of continuous employment started;
- the job location;
- the pay and whether it's weekly, monthly etc;
- the working hours;
- the holiday entitlement;
- the job description / job title;
- the details of any collective agreement that directly affect the employee's conditions of employment.

This written statement is a legally binding agreement between an employer and employee, where an employee agrees to work for an employer for payment. It is evidence of the contract of employment.

Ideally, the statement should be provided when employment starts, but it must be provided within two months of starting work. Employers should note that failure to provide a certificate could ultimately result in the employee making a claim to an employment tribunal. If this is upheld, compensation of between two and four week's pay could be awarded. Employers should be aware of the potential adverse effect this may have not only on their relationship with that individual employee, but with other members of their workforce.

Making Bullying and Harassment a Thing of the Past:

With harassment, bullying and sexual misconduct highlighted in the news recently, no employer can afford to be complacent. Allegations of such behaviour towards employees or others can do serious harm to the reputation of a business. Ignoring the issue can lead to expensive and damaging litigation. Employers need to know what behaviour amounts to harassment or bullying and have procedures to stop it effectively and quickly.

Defining the Problem:
Bullying is offensive, intimidating, malicious or insulting behaviour, the abuse or misuse of power by undermining, humiliating, denigrating or injuring the recipient.

Harassment is defined under the Equality Act 2010. It consists of unwelcome behaviour that is:

- Intended to violate, or has the effect of violating, an individual's dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- Related to a protected characteristic – age, disability, race, religion or belief, sex, sexual orientation or gender reassignment. Harassment may come from another employee or from someone else, such as a customer. Examples of unacceptable behaviour are exclusion, victimisation, spreading rumours, unfair treatment, overbearing supervision, blocking an individual's training or promotion opportunities and making sexual advances or comments.

Addressing the Issues:
Employers have a duty under the Equality Act to prevent harassment at work. Here are some things they should do:

- Consider making a statement that bullying and harassment will not be tolerated. You could involve your staff in framing such a statement.
- Have fair and strong grievance and disciplinary procedures.
- Assure employees that any allegations will be taken seriously, investigated and handled confidentially.
- Make sure your managers will challenge inappropriate behaviour and comments.
- Establish a culture in which employees feel able to contribute their views rather than being instructed what to do.
- Consider whether any training is needed to rectify any lack of understanding of what bullying and harassment are. Having good systems can provide an employer with a defence if there is a tribunal claim, and help produce a happy and productive workplace.

HMRC Takes Hard Line on Illegal Working:

HMRC require any employer using labour supplied by a third party to undertake stringent checks to guard against illegal working practices.

Employers need to establish where their workers come from, how they are paid and whether those arrangements are legal. HMRC advise that there are four main areas for employer consideration:

- is the supplier of labour legitimate, with no history of non-compliance
- does the employer understand and approve of the labour supply chain used
- are agency workers paid the contractual rate – and does this comply with National Living Wage / National Minimum Wage legislation
- is there pro-active employer involvement to eradicate modern slavery and illegal working in the labour supply chain?

The key point to note is that employers must be able to demonstrate compliance: there must be evidence that relevant checks have been carried out – that they have checked that appropriate licences are held, such as a Gangmaster Licensing Authority licence or a Security Industry Authority licence, for example.
Failure to comply can have severe repercussions. If non-compliance is established, employers may become liable for unpaid tax and National Insurance contributions, and if HMRC consider that non-compliance has involved the employer in VAT fraud, the right to reclaim input tax may be lost. Be aware that employers connected with a non-compliant labour supply chain are likely to be deemed to be complicit by HMRC, unless they can prove otherwise.

These penalties come on top of government rules which can see employers facing fines and even prison sentences of up to five years where they take on people who don't have the right to work in the UK. The risk of reputational damage is also considerable, and offenders may be named and shamed in the press. In a further development, the Chancellor announced in the autumn Budget that the construction sector will soon come under the spotlight, with new rules likely.

Company Car Costs to Increase with New Emissions Charges:

Changes to company car charges due in 2018/19 and 2019/20 will lead to increased costs, particularly for drivers of low-emission vehicles. There will be increases in the charges that are applied to a car's list price to calculate the taxable benefit of having a company car: For cars with CO2 emissions of 95g/km and above, the percentage is increased by 1% for each additional 5g/km of emissions. For example, in 2018/19 the relevant percentage charge for a car with CO2 emissions of 119g/km would be 24%. The charge is capped at a maximum of 37%. To take a specific example, the Audi A4 is widely used as a company car. For 2017/18 the tax on a 3.0-litre diesel engine A4 with a list price of £37,480 for a 40% taxpayer would be £315 a month. Next year, the monthly cost will be £353 and by 2019/20 it will be £391. Recently, drivers of company cars with zero emissions did not suffer any tax charge, but they will see their current 9% charge increase by nearly 80% over the next couple of years. From 6 April 2020, the electric range of a car will also be a factor in determining the percentage charge for cars with CO2 emissions of 1-50g/km, with a very favourable tax charge if a car can travel a high distance on just electric power. A 2% charge will apply for cars that can only be driven in zero-emission mode.

Diesel Cars:

Diesel company cars are subject to a 3% surcharge for 2017/18, although the percentage charge is still subject to the 37% maximum. For example, a diesel car with CO2 emissions of 119g/km will have a percentage charge of 25% (22% + 3%). The surcharge does not apply to diesel hybrids.

From 2018/19, the diesel surcharge will increase to 4%, although it will not apply to diesel hybrids (as now) or diesel cars certified to the Real Driving Emissions 2 (RDE2) standard. Sadly there are no qualifying RDE2 diesels currently for sale and there are unlikely to be any for the next 12 to 18 months.

What to do now?

The increasing tax costs make vehicle selection more important than ever, whether you are an employee selecting your next company car or are responsible for your company's car fleet.

- Modern hybrid cars generally have much lower CO2 emissions rates compared with petrol and diesel variants.
- Employees should consider the advantages of contributing towards the cost of a company car if it means that you can have one with much lower emissions. Up to £5,000 can be deducted from a car's list price for the purpose of calculating benefits.

Benefits that Lose Tax Free Status from April 2018:

The tax and NIC advantages of certain benefits provided as part of a salary sacrifice arrangement changed from 6 April 2017. When the changes were introduced it was confirmed that all arrangements in place before April 2017 will be protected for up to a year. This means that current contracts that remained under the pre-2017 rules will now fall under the new rules from April 2018.

The new rules effectively remove the Income Tax and employer NIC advantages of certain benefits provided as part of salary sacrifice arrangements such as mobile phones and workplace parking. The April 2018 deadline is extended until April 2021 for cars with CO2 emissions above 75g/km, accommodation and school fees. Where an existing contract is varied, renewed or modified then the new rules apply.

The following benefits are not currently affected by the new rules:

- Employer provided pensions and pensions advice
- Childcare vouchers
- Employer provided childcare or workplace nurseries
- Bicycles and cyclist safety equipment including cycle to work schemes, and
- Ultra-low emission cars, below 75g/km

Employers and employees are still free to use salary sacrifice, but with the tax and Class 1A NICs advantages removed. Employees can reimburse their employer for the cash value of any benefit, after the end of the relevant tax year.

Different Forms of Remuneration:

In the Spring Budget 2017 the government stated that it wished to consider how the tax system 'could be made fairer and more coherent'. A call for evidence was subsequently published on employee expenses. The government's aim is to better understand the use of the income tax relief for employees' business expenses. It sought views on how . employers currently deal with employee expenses, current tax rules on employee expenses and the future of employee expenses.

Following the call for evidence:

- the government announced that the existing concessionary travel and subsistence overseas scale rates will be placed on a statutory basis from 6 April 2019. Employers will only be asked to ensure that employees are undertaking qualifying travel.
- the government also announced that employers will no longer be required to check receipts when making payments to employees for subsistence

using benchmark scale rates. This will apply to standard meal allowances paid in respect of qualifying travel and overseas scale rates. Employers will only be asked to ensure that employees are undertaking qualifying travel. This will have effect from April 2019 and will not apply to amounts agreed under bespoke scale rates or industry wide rates.

- HMRC will work with external stakeholders to explore improvements to the guidance on employee expenses, particularly on travel and subsistence and the claims process for tax relief.

Mileage Rates:

We will have already had conversations with a number of you regarding your Motor Expenses and how best to claim these. We still strongly recommend keeping a mileage log where possible, detailing all miles undertaken for an on behalf of business matters. However, it is also still important to keep receipts for your motor expenses, as this enables us to calculate your most tax efficient claim.

The Mileage rates remain the same for the 2018/19 tax year:-

Car & Vans	45p per mile for first 10,000
	25p per each subsequent mile
Each qualifying passenger	
	5p per mile
Motor Cycles	24p per mile, irrespective of total miles
Bicycles	20p per mile, irrespective of total miles

Apprenticeship Levies for Employers:

April 2017 saw the introduction of the Apprenticeship Levy and a new Immigration Skills Charge. Both are potentially payable annually and are designed to encourage employers to train the staff they need, rather than to recruit skilled workers from abroad. The apprenticeship levy is paid by employers with a pay bill of more than £3 million each year. The levy is 0.5% of the pay bill, although there is an annual allowance of £15,000.

Unfortuatnetly though, it doesn't appear to be working from an emplyers point of view, with more than half (53%) of employers currently paying the apprenticeship levy would like to see it replaced with a 'training levy', according to a new survey carried out by the Chartered Institute of Personnel and Development (CIPD). Of more than 1,000 employers questioned, just 17% of those paying the levy said they supported it, while four in ten claimed it would make 'little or no difference' to the training they provide.

The study also revealed that 46% of levy-paying employers will simply 'rebadge' their existing training in order to meet the requirements. Commenting on the survey's findings, Lizzie Crowley, Skills Adviser at the CIPD, said: 'Our research shows that the straitjacket of the apprenticeship levy is forcing many firms to re-badge a lot of their existing training as apprenticeships, as they seek to claw back the levy they pay. In many instances this is not adding any additional value and is creating a lot of additional bureaucracy and cost.

She continued: 'The government needs to seriously review the levy to ensure it is flexible enough to respond to employers' needs and to drive the greater investment in high quality training and workplace skills needed to boost UK productivity.'

Staff & Snow!

What are my rights as an employee if my child's school is closed due to snow?
According to the law, you have the right to take 'dependent leave' to make sure your child is looked after in an emergency. This is essentially unpaid time off work. A specialist employment solicitor at Nelsons Solicitors, says: 'You are entitled to take a reasonable amount of unpaid time off work to take care of your kids if there is unexpected disruption in their normal care arrangements – the closure of a nursery or school would qualify as an emergency. 'However, this is not time off to look after the child, but to make alternative arrangements for their care instead. 'Many employers are more flexible though in these circumstances and will allow employees to take holiday at short notice or, if appropriate, to work from home or make the time up.'

I can't get into work because of the bad weather. Does my employer have to pay me?
Essentially no. It's usually your responsibility to get to and from work so if you don't show up, an employer is entitled to regard absence as unauthorised. An exception to this would be where the employer provides transport (e.g. a bus service) and this is cancelled. A specialist employment solicitor at Nelson Solicitors says: 'Some employers may consider allowing employees to request the time off as annual leave or to work from home'. 'It is important to remember your employer should not force or pressure you to attempt the journey if there are safety reasons why you should not travel.'

My workplace has closed for the day because of the weather. Do I still get paid?
If your workplace is closed because of the snow, your boss will still have to pay you – unless your contract has a provision allowing for unpaid lay-off. They can, of course, request you work from home if you are able to. If you are on a zero hours contract though, or your employer has a contractual right to decline to offer you work at short notice, they may not have to pay you. Also, if there is advance notice of bad weather, the employer could give notice to require employees to take their holiday.

Finally, a link to the Revenue page - Travel Disruption and Work:
https://www.gov.uk/travel-disruption-your-rights-at-work

Pay PAYE Electronically:

Do you still pay your PAYE by cheque? If so, you may have received a letter or call from HMRC asking you to switch to online or telephone banking, or to pay by debit card.

We agree with HMRC that electronic payments are safer and more secure than sending a cheque through the post, as it avoids the risk of the physical cheque being intercepted and fraudulently cashed. However, electronic payments are also at risk of misdirection if you make a mistake when typing the bank details or payment reference.

To pay by Direct Debut, you need to set up a new direct debit for each PAYE payment due, using the 13-character accounts office reference number, and enter the year and month for the particular payment. This is not worth the hassle. You need to remember to pay the PAYE due by the 22nd of each month, if you pay electronically, or by the 19th of each month if paying by cheque. Not all banks will allow an advance payment to be scheduled for a weekend or bank holiday, in which case the payment must be made on the preceding Friday. If your business pays less than £1,500 in PAYE per month, you can ask to pay the PAYE quarterly. We can make this request for you.

Please also remember that HMRC are continuing to chase PAYE contributions which have not been paid on time. It is therefore important to make payment on time if you do not want HMRC's debt enforcement to be on your case.

Direct Recovery of Debts on PAYE Debts:

An article in the HMRC Employer Bulletin explaining that HMRC can now take outstanding PAYE debts directly out of people's bank accounts may have worried some employers out there. However HMRC have reassured employers that this move is not aimed at care and support employers who have got into difficulty.

Direct Recovery of Debts (DRD) allows HMRC to recover cash directly from the bank and building society accounts, and funds held in cash in Individual Savings Accounts (ISAs), of people who owe them £1,000 or more.

However there are very stringent safeguards to ensure that adequate protection is in place for vulnerable customers and that those who are not vulnerable do not suffer undue hardship once money is taken directly from their accounts. This includes:

- HMRC only taking action against those who have established debts, have passed the timetable for appeals, and have repeatedly ignored HMRC's attempts to make contact - anyone who disputes the amount owed has the automatic right to appeal
- guaranteeing that every person who owes HMRC money will receive a face-to-face visit from HMRC agents before their debts are considered for recovery through DRD, this meeting will provide a further opportunity for HMRC to:

1. personally identify the taxpayer and confirm it is their debt
2. explain to them what they owe, why they are being pursued for payment, and discuss payment of the debt
3. discuss options to resolve the debt, including offering a Time to Pay arrangement, where appropriate
4. identify those who are in a vulnerable position and offer them the support from a specialist team to help them settle their debts

- only debtors who have received this face-to-face visit, have not been identified as vulnerable, have sufficient money in the bank and have still refused to settle their debts will be considered for debt recovery through DRD
- only considering the use of DRD on those with tax and tax credits debts of more than £1,000
- always leaving a minimum of £5,000 in the person's accounts, so that HMRC do not put a hold on money needed to pay wages, mortgages or essential business or household expenses

To be clear, those who are identified as vulnerable will not be considered for DRD, and will be given alternative support to help them pay the money they owe.

HMRC say that a vulnerable person could include those with a disability, mental health condition or learning difficulty that directly impacts on their ability to communicate with HMRC or to manage their HMRC affairs, meaning they are unable to understand or appreciate their indebtedness.

HMRC's indicators for identifying other vulnerable customers can be found on GOV.UK.

Late Filing Penalties for PAYE Under RTI:

HMRC have confirmed in their Employer Bulletin, published on 16 August 2017 that they will continue their risk-based approach to charging penalties for the late filing of a Full Payment Submission (FPS) or Employer Payment Summary (EPS) in the 2018-19 tax year. This means that rather than issuing penalties automatically for late filing, the penalties are risk assessed for persistent late filers. The first penalties for late filing from April 2018 will be charged in September 2018.

The concession that a penalty is not charged if an FPS or EPS is filed late but within three days of the due date, will be retained. HMRC emphasise that this is not intended to be a concession to extend the statutory filing date. Employers who persistently take those extra three days for filing will be reviewed and considered for a penalty.

Penalties for late filing are linked to the number of employees the employer has. The penalty starts at £100 a month for late filing where there are one to nine employees, and rises to £400 a month for 250 or more employees. Further penalties are charged for those filing over three months late.

Auto Enrolment:

Every employer with at least one member of staff now has new duties, including putting those who meet certain criteria into a workplace pension scheme and contributing towards it. This is called automatic enrolment and by now, if you are an employer, you should have received a letter from The Pensions Regulator explaining your obligations.

Communicate the Changes:
Employers are required by law to write to all workers explaining what automatic enrolment into a workplace pension means for them. There are different information requirements for each category of worker. Make sure you have a strategy in place for briefing employees and plan how you will manage any queries that arise. A range of letter templates are available on the Pensions Regulator website to help employers fulfil their legal obligations.

Automatically Enrol Eligible Jobholders:
Under the new regulations, employers are required to: provide information to the pension scheme about the eligible jobholder; give enrolment information to the eligible jobholder; and make arrangements to achieve active membership for the eligible jobholder. This should be carried out within the 'joining window' (the one-month period from the eligible jobholder's automatic enrolment date).

Register with the Pensions Regulator and Keep Records:
All employers will need to register online with the Pensions Regulator within four months of their staging date.
Employers must also keep specific records about their workers and their pension scheme(s).

Not Budgeting Properly:
Unsurprisingly, the risk of not adequately preparing for auto-enrolment could see firms landed with pension bills they cannot afford, meaning cutbacks may have to be made elsewhere. Planning early is the way to avoid this added expense.

Encouraging Staff NOT to Join:
Employers are banned from offering incentives to their workers to opt out of an auto-enrolled pension. They are also not allowed to refuse to employ someone because they want to join the company pension scheme. The Pensions Regulator provides a whistleblowing facility to combat this and may issue penalties to those firms found breaching these rules.

Single Director Companies:

There is an exemption available for Companies whose only employee is a Director, which can be extended to Companies with more than one employee, as long as they are all Directors with no contract of employment and are member of the same family. If you believe this applies to you, please let us know and we can clarify for you.

Whatever your staging date, it is important to prepare for auto-enrolment in good time. If you want to you can enroll earlier and avoid the mad rush of everyone doing it at the same time. Further information for employers is available at www.thepensionsregulator.gov.uk.

Businesses need to be aware that from 6 April 2018, the minimum employer contribution towards an employee's workplace pension will increase from 1% to 2%.

These contributions are usually mandatory for workers aged between 22 and state pension age, earning more than £10,000 a year.

The Regulator may impose fines ranging from a £400 fixed penalty to a varying daily escalating penalty from £50 to £10,000 for non compliance.

The Pensions Regulator has announced that the number of employers meeting their workplace pension duties has reached one million and that statistics show that approximately 9.3 million people are saving into a pension.

Pension Contributions for Business Owners:

Taxation of pensions can be complex, particularly for those with significant incomes. However, we can help you find the most tax efficient way of extracting money from an owner managed business.

Company pension contributions into the director's personal pension are about the most tax efficient way of extracting money from an owner managed business. The company receives a corporation tax deduction for the contribution when it is paid. No tax is paid by the pension fund, including on any investment growth, and only 75% of the contribution is taxable when it is withdrawn from the pension fund. Overall this makes pensions far more tax efficient than withdrawing funds in the form or salary or dividends. The catch is that the money is locked in the pension fund until the individual is 55.

Most individuals have an annual allowance for pension contributions of £40,000. This allowance is for contributions made in a tax year, ie 6 April to 5 April. It is also possible to carry forward unused annual allowance for up to three tax years, but only if the individual has an open pension scheme for that year.

We therefore recommend all business owners consider whether they should be making pension contributions in advance of 5 April 2018, or if they do not already have a pension, opening one (possibly through auto-enrolment), in advance of 5 April 2018 to preserve their entitlement to the 2017/18 annual allowance.

How Long Do I Have To Keep Tax Records:

The length of time you need to keep tax records depends on the types of income you earn and the types of tax you are paying. A list of time limits is set out below:

Income Tax and Capital Gains Tax:

If you are not in business:
One year from the 31 January following the end of the tax year. For 2017-18, you would need to keep your records until 31 January 2020.

If you are in business – which includes rental income:
Five years from the 31 January following the end of the tax year. For 2017-18, you would need to keep your business and other tax records until 31 January 2024.

A company subject to Corporation Tax:
Six years from the end of an accounting period. For the year ending 31 January 2017 you would need to keep records until 31 January 2024.

VAT:
You should keep records for at least six years.

PAYE:
You should keep payroll records for three years after the end of a tax year. For 2017-18 this would be until 5 April 2021.

These deadlines can be extended if for example:

- You file your self-assessment tax return late
- A return is subject to an enquiry or compliance check
- Records relate to a transaction spanning more than one year
- An asset is bought which is expected to have a life beyond the time limit

The contents of this Newsletter reflects our understanding of the current Tax Law, which may change when the Finance Act goes through the House of Commons.

If any points arising from our Newsletter make you think of someone you know, please don't hesitate to let them know about us!

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