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AUTUMN NEWS



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Braced for Budget

Philip Hammond, the Chancellor of the Exchequer, will deliver his next Budget speech on 22 November 2017. This will not be a half-hearted Autumn Statement, but a full-thrust Budget, with proposals designed to brace the economy for Brexit turbulence.

Hammond decided to move the main Budget event from the Spring to the Autumn to allow time for consultation on new tax measures before they are implemented from April 2018. This should avoid the retrospective imposition of tax changes, which tends to happen when draft tax law is released in March to apply from the next 1 or 6 April, but the Finance Act introducing that law is not passed until July.

This year the Parliamentary timetable was disturbed due to the snap General Election in June, but most of the postponed tax changes are coming into effect from the dates originally proposed. This includes new 'deemed domiciled' rules for long-term UK residents, new allowances to cover small amounts of income from letting property or trading, and the cash basis of accounting for residential landlords (with the option to opt out and use normal accounting).

One tax innovation which has been amended over the Summer is the Making Tax Digital (MTD) project. The timetable for introducing quarterly reporting under MTD has been rewritten. VAT registered businesses will be required to use accounting software to pump their VAT figures directly into HMRC's computer, on a quarterly basis, from April 2019. Other businesses will commence MTD quarterly reporting from April 2020 or from a later date, once it can be shown that the MTD processes work smoothly.

The MTD project has not been canned; it continues with the more sensible approach of getting it right for larger businesses, before smaller businesses are expected to go digital for tax reporting. ●

Check the value

Tax is complicated, and sometimes it isn't obvious what amounts you should report on your tax return. For example, if you give away a property or shares, how do you determine whether you have to pay Capital Gains Tax (CGT) tax on that gift or not?

The first step is to take account of who you have given the asset to. A gift to a charity will be exempt from tax, but where the recipient is a relative, you are generally taxed as if you had sold it at market value. A transfer to your spouse or civil partner, in the year you were living with that person, is not chargeable to CGT, but the recipient's gain or loss on eventual disposal of the asset will reflect the couple's combined ownership period.

Where the transfer is treated as being made at market value, you have to ascertain what that value is, often by paying for a professional valuation. HMRC will not necessarily agree with the value you have come up with.

You can ask HMRC to check your valuation by submitting a form CG34, together with supporting documents such as plans of the property, or three years of company accounts for shares. The capital gains tax compliance office within HMRC will accept or reject the valuation you suggest, but that process will take at least two months.

If your tax return is due for submission within that two-month period, you should not ask for the valuation check, as HMRC won't provide an opinion on figures already reported on a tax return. If you do have time to get the valuation checked, don't delay submitting your tax return if you are still waiting for a response from HMRC when the deadline comes around.

There is an election you can make to hold over any tax due when the asset given away was used for business purposes, and that may include shares held in your own company. We can help you with such holdover elections. ●



VAT agreements

The VAT rules are relatively easy to operate on a day-to-day basis, if all your income is business related and all your sales are subject to VAT. You can reclaim all the VAT incurred on your purchases, and you don't have to worry about apportioning your input costs.

However, some organisations receive income from non-business activities, such as grants for undertaking environmental work, or have sales which are exempt from VAT. In these cases, the VAT-registered business will have to apportion its input costs between business/non-business activities, or between sales which are VATable/exempt.

Opticians in particular may make a large amount of exempt sales, as an eye-test is exempt from VAT. There is a standard method for apportioning costs for exempt sales, but this will not suit all businesses.

If your business has an unusual mixture of exempt/VATable sales or a significant amount of non-business income, it is wise to agree a method of cost apportionment with HMRC. This agreement should be made in writing and reviewed regularly to check that circumstances haven't changed. ●

Online filing exclusions

The Government would like everyone to submit their tax returns online. However, the HMRC computer software is not flexible enough to accept online tax returns which report very unusual combinations of income, gains and allowances.

Where the software excludes the taxpayer's circumstances from online reporting, the taxpayer has to submit a paper tax return instead. This year there have been more exclusions from online filing than normal, because new allowances for savings and dividends have created complications in the tax computation which HMRC's computer can't cope with.

HMRC is planning to fix some of the issues with the personal tax computation for 2016/17, but not all of the exclusions for online filing will be removed. There will be some workarounds for certain situations, such as entering a gain of £0.01 instead of nil, but in other cases a paper tax return will be required.

If we ask you to sign a paper tax return, please understand this is because the HMRC computer won't accept an online tax return which reports your particular mixture of income.

Where your paper tax return is submitted after 31 October, because it isn't possible to submit it online, you will have reasonable excuse for the 'late' return. We will submit the reasonable excuse form alongside your paper tax return in such circumstances. ●

Money laundering registration

Businesses that deal with sensitive financial transactions are required to be registered with a supervisory authority under the anti-money laundering regulations. This includes: estate agents, currency exchangers, bill payment providers, trust or company service providers.

Those money laundering regulations have recently been tightened up for High Value Dealers (HVD), which are businesses that receive or make cash payments of €10,000 or more for goods acquired in a single transaction. As the Pound is now almost at parity with the Euro, if you take a cash payment for a sale worth £10,000 or more, even if the total amount is paid over several instalments, your business can be classed as an HVD.

This receipts threshold has always been set at €10,000, but since 26 June 2017 a business is also an HVD if it pays for cash goods worth €10,000 or more. This threshold for payments was previously €15,000. If this applies to your business, you must not accept such large cash receipts or make large cash payments until you have registered your business as a high value dealer with a supervisory authority (or with HMRC), to comply with the money laundering regulations.

There is a fee to pay with the registration, and an annual renewal fee. If your business doesn't comply with the money laundering regulations when required to do so, HMRC can levy a penalty, and if non-compliance persists, HMRC will consider criminal prosecution. ●



Non-resident CGT reporting

When a person who doesn't live in the UK sells a home located in the UK, the disposal must be reported to HMRC within 30 days of the completion date, using the online form for Non-Resident Capital Gains Tax (NRCGT).

This deadline has been catching out many taxpayers and their advisers. Where the seller is not registered with HMRC, any NRCGT due on the gain must also be paid by the same date: 30 days after the completion of the deal. If the disposal is a gift between spouses, an NRCGT return is not required.

Where the seller is already registered with HMRC, they can opt to pay the NRCGT due as part of their regular tax return, on the normal due date for that tax return. However, in all cases a report of the sale must be made on an NRCGT return within 30 days of the conveyance, which is the date from which the property legally belongs to the new owner.

If the NRCGT return is not submitted on time, late filing penalties apply. These start at £100 for one day late, £300 when 6 months late, and a further £300 for a delay of 12 months. Where tax is payable on the gain, the penalties due at 6 and 12 months are calculated as the greater of 5% of the tax due and £300.

Example

Sandy has been resident in the USA for the last six years. She completed the contract to sell her UK property on 1 May 2016, so the NRCGT return was due by 31 May 2016. Sandy assumed that the gain had to be reported on her 2016/17 tax return, as she hadn't heard of NRCGT. She told her accountant about the sale in June 2017, who immediately submitted the NRCGT return. However, by that point Sandy had racked up penalties of £700 for the 12 month delay in submitting the NRCGT.

The late filing penalties can be appealed, and may be cancelled if the taxpayer has a reasonable excuse, but ignorance of the law is not a reasonable excuse. ●

Corporation tax payments

Your company's Corporation Tax bill is payable nine months and one day after the end of the company's accounting period, so by 1 October for a period that ended on the previous 31 December.

The Corporation Tax bill may be the largest single tax payment you make in the year, so it's essential to get it right. Check these points:

- Does the amount you are paying agree with the accounts and tax computation? You can pay an estimated amount if the tax return hasn't been filed yet
- Are there sufficient funds in the company's bank account? If you can't pay the full amount due, contact HMRC to arrange for a 'time to pay' schedule. We can help you negotiate a reasonable payment period. You will pay interest on any late paid tax, but

you should avoid a penalty if the time to pay is arranged in advance

- Are you paying the funds into the correct bank account? HMRC has changed its bank account numbers in the last few years.

Check the account number and sort code saved in your online banking against the account number on the Corporation Tax payslip or on the notice to file form. If you can't find the payslip, check on gov.uk/pay-corporation-tax

If you want to pay the tax due by cheque rather than electronically, submit the cheque with the payslip for the period the tax relates to. Don't use an older payslip which will contain the obsolete bank account number. Allow sufficient time for the cheque to arrive with HMRC via the post. •

Why your PAYE code may be wrong

HMRC has upgraded its computer system to react quickly to changes in taxpayers' pay and benefits reported through the payroll. However, the computer doesn't know that the bonus you received in June was a one-off, and it assumes your monthly salary increased permanently.

Multiplying your bonus by 12 could take your estimated pay into a higher tax band, which will affect the rate of tax deducted from your pay. We can help you check whether your PAYE code has been amended to deduct more tax than you should be paying.

Another bug in the tax code programming affects taxpayers who receive interest. For most taxpayers, any

interest they receive is covered by their savings allowance, and no tax is payable.

If the explanation of your PAYE code includes 'untaxed interest' set against your personal allowance, this will waste part of your personal allowance. The interest should be set against your savings allowance. If you have surplus personal allowance, which hasn't been set against your salary, it may be more efficient to set it against dividend income from your own company, rather than interest.

You can ask HMRC to alter your PAYE code by accessing your personal tax account online at gov.uk/personal-tax-account, or we can talk to HMRC on your behalf. •

Why your tax computation may be wrong

Where your main income is taxed under PAYE, you may not be asked to complete a tax return each year. Instead, the HMRC computer automatically compares all the reports of your income made by employers and banks, and if you have under or over-paid tax for the year the computer issues a tax computation on a form P800.

Interest paid by banks and building societies has been paid without tax deducted since 6 April 2016. If you received interest with tax deducted in 2015/16, the same amount of interest, including the same amount of tax deducted, may have been carried over to your 2016/17 tax computation. This fictional tax, which the computer has assumed was deducted from interest in 2016/17, may be shown as being repayable to you.

This faulty tax calculation needs to be corrected. A tax repayment received in error is treated as seriously as a deliberate tax underpayment, and it can result in penalties. We can help check any P800 tax computation you receive. •



R&D claims can be amended

Research and Development (R&D) tax relief allows small and medium-sized companies to claim a tax deduction for 230% of their qualifying R&D costs, but they must show how the total of relevant costs was arrived at. This total of costs claimed can include the salaries of employees and directors directly engaged in R&D projects, along with business expenses reimbursed to those individuals.

The official HMRC guidance had indicated that reimbursed employee expenses could not be included in the R&D claim, but this advice has been changed several times in the last four years, creating confusion.

If your company made an R&D claim on or after 9 October 2014 you can now amend that claim if you didn't include reimbursed expenses in the total R&D costs claimed. The period of the claim must end between 9 October 2012 and 31 January 2016. Such amendments would normally have to be submitted within two years of the end of the period, but these amended claims can be submitted to HMRC up until 31 January 2018.

We can help you with your initial or amended R&D tax relief claim. •

Zero is a number for VAT

VAT is charged at three rates in the UK: 20%, 5% and 0%; so zero is definitely a number for VAT. However, zero-rated sales should not be confused with VAT-exempt sales.

Sales which are zero-rated must be included within your business turnover that counts towards the test for compulsory VAT registration, whereas exempt sales are not included in that total. This distinction is particularly important for new traders, whose turnover for a 12-month period can quickly exceed the VAT threshold (now £85,000).

It is worth checking with your suppliers how the goods you buy for resale are treated for VAT purposes, as there are some strange anomalies. For example, motorcycle helmets and certain safety boots are zero-rated (not exempt), but all other protective clothing for adults is standard-rated, so charged at 20% VAT. Look carefully at your purchase invoices to check whether you have been charged VAT at 20% or 0%, or if the invoice says the product is exempt from VAT.

If you leave out zero-rated items when calculating your total sales for the last 12 months, you will understate your turnover and may fail to register for VAT on time. If this happens you will have to pay the VAT on sales made from the date you should have registered, and HMRC will charge you a penalty. •

Failure to prevent tax evasion

You need to be aware of the new corporate criminal offences concerning a failure to prevent evasion of tax, which came into effect on 30 September 2017. These offences apply in respect of UK taxes, where the evasion is facilitated by any business located anywhere, and in respect of overseas taxes where the evasion is facilitated by a business with a UK connection.

The law can only apply to a company or a partnership, not to individuals. The business will be liable to be prosecuted if an employee or other associated person (such as an adviser) criminally facilitates tax evasion whilst acting in that capacity for the business. The facilitator of the tax evasion must do so knowingly, but falsifying dates on dividend documents, or claiming for non-deductible expenses, can be acts of tax evasion where the intention is to reduce the tax payable.

The main line of defence is for the business to have reasonable procedures in place to prevent the facilitation of tax evasion. An offence can be committed even if the senior management of the business weren't involved or were not aware of what was going on.

The consequences of being prosecuted for failure to prevent tax evasion include: unlimited financial penalties, confiscation orders, serious crime prevention orders, regulatory issues and reputational damage. The company may also be prevented from bidding for Government contracts.

The types of businesses most at risk are those which pay large sums to consultants, do cross-border business, engage casual or itinerant labour and contractors, or handle goods and services where organised fraud is a risk. All company boards should discuss this issue and ensure that the company has written policies in place to counter fraudulent acts. ●

Beware of scammers

We have often alerted you to scams which purport to be communications from HMRC, but are actually criminals trying to access your bank account or your login details for your online tax account.

These types of scams continue, but this Autumn HMRC is conducting a number of genuine surveys through the market research firms Kantar Public and Ipsos MORI. If you are selected for the survey you won't be asked to provide any personal or financial information, or to make any payments.

You can also refuse to take part in the survey if you are contacted by either market research firm. Don't hesitate to contact us if you are worried about any communication which is supposedly from HMRC, or from a debt collector acting on behalf of HMRC. ●

Two-step security

When you access your online bank account you generally need to complete a two-step security process, which may include inputting a code generated by a keypad or received via a text message.

HMRC is now rolling out a two-step security process which all businesses will need to complete before filing PAYE, VAT or Corporation Tax returns. This means that in addition to entering your usual login details, you will need access to a mobile phone, or a telephone landline, or an app, to receive a security code each time you want access to your HMRC account.

Think about how you will handle this change. Do you want to set up a

dedicated mobile phone to receive the code numbers? You can nominate a landline telephone number instead, in which case the code number will be read out by an automated voice.

Where all telephone calls to your business are routed through a central switchboard, you may want to use the HMRC app on a tablet connected to the internet to receive the security code. However, each code received via the app will only be valid for 30 seconds, so you need to be pretty nimble copying the code number into your online tax account.

We can file tax returns on your behalf, but we must be authorised in advance to do so. ●

Reclaiming CIS tax

If your company is registered under the Construction Industry Scheme (CIS) as a sub-contractor, it will generally have CIS tax deducted from the payments it receives from large contractor companies. There are two ways to get your hands on this withheld CIS tax: as a credit against PAYE due, or reclaim it directly from HMRC.

Your first option should always be to off-set the CIS tax against your company's PAYE liability. Make this claim on the Employer Payment Summary (EPS) each month, and the set-off should be dealt with by HMRC's computer.



If you don't pay enough PAYE to cover the CIS tax, you need to submit a repayment claim to HMRC. This can now be done online through an interactive form on gov.uk, or we can make the claim on your behalf.

You don't have to send any supporting documents with the claim. If HMRC can't match your claim to the CIS deductions reported by the contractors who withheld the tax, it may ask you for further information.

When that repayment is processed you can ask for the amount due to be set against your company's other tax liabilities, such as VAT or Corporation Tax. ●

PAYE late filing penalties

Penalties for filing PAYE returns late start at £100 per month for the smallest payrolls, and rise to £400 per month for payrolls with 250 or more employees. You can make one late submission before a penalty is imposed, but how do you stay within the rules?

Employers must file the Full Payment Submission (FPS) report for their payroll on or before the earlier of:

- the day on which the employees are actually paid
- the date on which those employees become entitled to their pay

Say the employment contract states that your employee is entitled to be paid on the 28th of each month, but in August you ran the payroll and made payments on 29 August as 28 August was a Bank Holiday. In that case the FPS sent on 29 August is deemed to be late as it was

submitted after the day on which your employee became entitled to his pay. This rule applies even if the individual was actually paid a day late, i.e. on 29 August.

To avoid such technical breaches of the rules, HMRC has introduced a concessional three-day grace period for filing the FPS. However, this is not a change to the rules. Employers who persistently file the FPS late, even within the three-day grace period, will be warned and considered for a penalty.

HMRC sends out penalties to employers by letter, not by email or GNS message (the electronic messaging service within PAYE online). If you have a reasonable excuse for late filing you can appeal against the penalty online or by post. We can make this appeal on your behalf. ●