2018 SPRING NEWS

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Registered in England and Wales No. 07124396

HMRC is not always right

It should be reasonable to assume that information published in the name of HMRC on gov.uk would be 100% accurate, but unfortunately it is not.

For example, HMRC asserts that every company director must register for self assessment and complete a self assessment tax return for each year they hold the directorship. This is incorrect. A person only has to register for self assessment if he or she has income or gains to report to HMRC. There is no special condition set down in the tax law which requires directors to register for self assessment, where they have no income which is not already taxed under PAYE.

If you have been issued with a self assessment tax return, or a notice to complete the return online, but you think it's unnecessary as you have no untaxed income to report, you should ask HMRC to withdraw the requirement to file that tax return. If you ignore the return or notice, you will receive a £100 penalty for late submission of the tax return, plus daily penalties of up to £900, and further penalties of £300 where the delay amounts to six months or twelve months. These penalties can be appealed at the tax tribunal.

Where an HMRC officer has made a decision you think is wrong, you can generally ask for that decision to be reviewed by a different HMRC officer, under what is known as internal review. This will take up to 45 days, and you can submit additional evidence to the review team to help them with their decision. Certain decisions are not open to review.

If you are not happy with the results of the review you can submit an appeal to the tax tribunal. Where the issue is complex you may want to ask for Alternative Dispute Resolution (ADR), which is a type of mediation. The appeal process can run alongside ADR, until such time as ADR concludes. We can help you with all these appeal processes. ●

Childcare support

Tax free childcare accounts can now be opened by all eligible parents who have children aged under 12, or under 17 if the child is disabled. For every £8 the parent deposits in the account, the Government will contribute £2, up to a maximum of £2,000 of Government support per child per year. Those limits are doubled for disabled children.

Parents who open a tax free childcare account are not supposed to double-up their childcare support by also receiving childcare vouchers or directly paid-for childcare from their employer. The parent should tell their employer in writing that they have opened a tax free child care account within 90 days, and the employer should take that employee out of the childcare scheme.

All employer-provided childcare voucher schemes were due to close to new entrants in April 2018, but this deadline has been extended to October 2018. This is good news, as the tax and NIC-free childcare vouchers can be given to parents whose youngest child is aged 12 or more, and hence don't qualify for the tax free childcare account. Employer-provided childcare vouchers can be used to provide care for any child under school leaving age.

Many families ask the child's grandparents to provide childcare on an informal or formal basis. Where those grandparents are under state pension age, and they care for a child aged under 12, they can claim adult childcare National Insurance (NI) Credits.

The person providing the care must be a relative of the child and mustn't be paying NIC on another job at the same time.

The child's parents must be entitled to child benefit for the child (but don't have to be actually receiving that benefit). This type of NI credit has only been available since 2011 and it is not widely advertised by HMRC. ●

Check your PAYE code

If you receive a pension or are paid a wage or salary, you should have a new PAYE tax code for 2018/19. It used to be issued in paper form, but now it may arrive electronically if you have activated your personal tax account at www.gov.uk/personal-tax-account. In that case, you will get a notification to go to your personal tax account and check your new PAYE code.

Please do take the time to check it, as an incorrect PAYE code will mean you could pay too much or too little tax. The key items to look out for in the calculation are: dividend tax and untaxed interest.

HMRC receives details of the interest paid by banks and building societies to individuals. In the past it has used this information to check that taxpayers were reporting the correct amounts of interest on their tax returns.

This year HMRC has used the 2016/17 interest data as a proxy for interest expected to be received in 2018/19, and it has amended taxpayers' PAYE codes accordingly.

HMRC shouldn't be using interest paid into joint accounts to populate your PAYE code, but the fact that an account is jointly held may not have been accurately reported by the bank. If you have a joint savings account, you should check that your share of the interest received is included in your personal tax computation.

When you receive a significant amount of interest in one tax year, you need to pay tax on at least part of that income, as banks no longer deduct tax at source from interest. HMRC may have included the untaxed interest in your PAYE code so you can pay the tax gradually throughout the year.

You don't have to pay tax on modest amounts of interest received, where that income is covered by your personal savings allowance of £1,000 (£500 if you are a higher rate taxpayer). If you have a low level of earnings or pension income, your interest may also be covered by your savings rate band of £5,000.

If you believe the figures in your PAYE code are incorrect you can ask for the code to be changed by accessing your online personal tax account. If you haven't discovered how to do that we can take you through the process, or contact HMRC on your behalf. ●

Scottish income tax rates

Scottish taxpayers have a Government which has a different approach to income tax and spending. It has increased tax rates for higher earners and inserted new tax bands from 6 April 2018.

Unfortunately, the Scottish tax bands don't align with the thresholds for National Insurance Contributions (NIC), which are set by the UK Government. The Scottish tax rates and bands also don't apply for savings and dividend income, nor for Capital Gains Tax.

The Scottish Income Tax and NIC bands for 2018/19 are shown in the table.

Tax bands for 2018/19

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

* The rate between £100,000 and £123,700 is an effective rate that applies due to the withdrawal of the personal allowance above £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'. HMRC use your correspondence address as the indicator of your main home, unless you inform them otherwise.

If you are a self-employed Scottish taxpayer, you will pay the Scottish Income tax rates as per the table, plus NIC at 9% instead of 12% paid by employees.

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

Capital allowances and cars

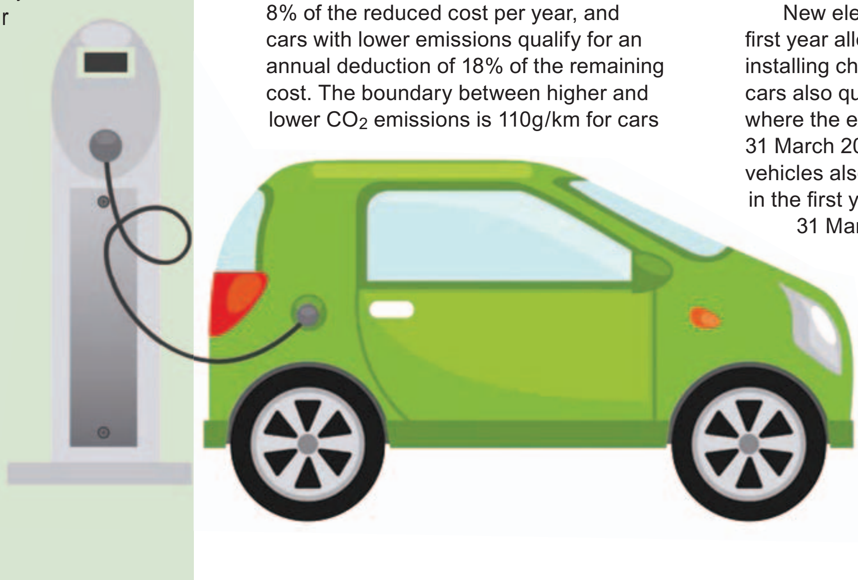
The most expensive piece of equipment most small businesses use is a car, but the Government generally doesn't allow you to claim a deduction for the full cost of a car in the year of purchase. The acquisition cost of most cars must be spread over several years using Capital Allowances, the rate of which varies depending on the vehicle's CO_2 emissions.

Cars with higher emissions qualify for a Capital Allowance deduction of 8% of the reduced cost per year, and cars with lower emissions qualify for an annual deduction of 18% of the remaining cost. The boundary between higher and lower CO_2 emissions is 110g/km for cars purchased from April 2018 onwards, reduced from 130g/km for cars purchased in 2015/16 to 2017/18.

Cars with very low CO_2 emissions do qualify for a 100% deduction in the year of purchase, but only if the car is brand new and unused when acquired. Very low CO_2 emissions is now defined as no more than 50g/km; for cars purchased in 2015/16 to 2017/18 this threshold was CO_2 emissions of 75g/km.

New electric cars qualify for 100% first year allowances. The cost of installing charging points for those electric cars also qualifies for a 100% deduction where the expense is incurred by 31 March 2019. Gas refuelling stations for vehicles also qualify for 100% allowances in the first year, if the cost is incurred by 31 March 2021.

All Capital Allowances must be claimed within the tax return for the period in which the cost was incurred, or in an amendment to that return, which can be made up to a year after the filing date for the return. ●



Avoid VAT penalties

As a VAT registered business, there are just two things you need to do to avoid a VAT penalty: pay your VAT on time and submit your VAT return on time. If you fail on either task twice within 12 months, you are put on the VAT equivalent of the naughty step.

Businesses with a turnover of £150,000 or more do not get that one-time free pass, as they are put on to the VAT naughty step (aka: VAT surcharge period) after just one late payment, or late filing of a return.

The surcharge period is a serious one-way trap, as once you are in you can't get out until you demonstrate a full 12 months of good behaviour. Any late payment or late filing within those 12 months means the surcharge period is extended for another 12 months.

What's more, the penalties start racking up. The first missed deadline within the surcharge period generates a penalty of 2% of the late VAT, the second missed deadline is a 5% penalty, then 10%, and finally 15% of the late paid VAT (ouch!).

Remember that even one day beyond the deadline means you are late. It's easy to overlook a small penalty charge if your annual turnover is under £150,000, as you won't receive a penalty bill for less than £400. But, the surcharge period will be extended and the penalties will continue to ratchet up should you default again.

The key thing to remember is: pay your VAT on time, every time. ●

Paying your children for working in your business

You can pay your son or daughter from your business, but only if their pay is reasonable for the work that they do for the business. Don't fall into the trap of paying over the odds for office assistance just because the worker is your relative.

Tax inspectors tend to be suspicious of amounts paid to the owner's offspring, so you need to retain some supporting evidence of the work done. This is particularly important if the work is not performed at your business premises. In that case, ask the worker to complete a regular time sheet and pay only for the recorded hours. Alternatively, pay according to the output delivered, such as for every leaflet designed, or each customer query answered.

Where the pay amounts to more than £116 per week, you must put this through the payroll and subject it to PAYE, just as you would for any other employee.

There are rules on how many hours a child aged under 16 is legally allowed to work during school term time, and during the school holidays. Search for 'child employment' on gov.uk for the rules relating to your industry. ●

Rent-a-room relief

When you let a spare room to a lodger, you are not only creating some extra income for yourself, but you are also increasing the availability of low cost accommodation. This is why the Government allows up to £7,500 of the gross rent you receive per year to be tax free under rent-a-room relief.

That tax relief can also cover bed-and-breakfast arrangements, such as letting rooms by the night through sites such as Airbnb.com. However, in all cases, the letting must be of furnished residential accommodation in your own home.

To be clear: you must live in the same property as the let room or rooms during the tax year, but you don't have to own that property. The relief can apply to rent received when you let the whole house for a short period, say, while you are temporarily away on holiday, as long as you don't establish another permanent home while you are away.

Rent-a-room relief can't apply to income you get from holiday lettings where you don't also occupy part of the same property. Similarly, it can't apply to income from a buy-to-let which is not occupied by the landlord.

You don't have to notify HMRC that you are claiming the relief if the gross rents received in the year to 5 April don't exceed £7,500. If the gross rents exceed that figure you must choose whether to be taxed on the excess above £7,500, or on the actual profits from the letting, which are the gross rents less any allowable expenses. ●

ATED returns are due

Does your company own a residential property worth more than £500,000? That's a pretty modest house in the London area.

If it does, you need to submit a tax return to report amounts due for the Annual Tax on Enveloped Dwellings (ATED), or claim relief on an ATED relief form. An ATED year runs from 1 April to 31 March and the ATED forms must be submitted online by 30 April during the relevant year, with any tax due payable by the same date. Stiff penalties apply for late returns, or late paid tax.

The ATED due for the year starting on 1 April 2018 varies between £3,600 for properties worth up to £1m, and £226,950 for properties worth over £20m. The property's value for ATED purposes is its open market value at 1 April 2017, or on the acquisition date if later.

Landlords who have transferred their residential property portfolios into companies need to check whether any of those properties were worth over £500,000 on the day the company completed the purchase. In that case, an ATED return will be required for the year in which the transfer occurred, and for subsequent years.

The first ATED charge is payable within 30 days of the completion date. In most cases a relief can be claimed, such as where the property is let on a commercial basis to tenants who are not connected to the company.

As relief from the ATED charge is claimed in advance, you must be careful to report to HMRC if the conditions for the relief are broken by, say, letting to tenants who are connected to the main shareholder of the company. In that case, an amended ATED return must be submitted within 30 days of the start of the next year, so by 30 April 2018 for a condition broken in 2017/18. ●

Requirement to correct

New tax law places a requirement on the taxpayer to correct their past tax position in relation to tax due on overseas assets and transactions, rather than on HMRC to discover the facts.

If you make the correction on or before 30 September 2018, and pay any tax due, you will face the normal level of penalties (up to 100% of the tax). If the disclosure is made after that date, the penalties can be up to 200% of the tax due and, in addition, you could be subject to additional penalties based on the value of any assets which you hold overseas.

If you have any doubts about accounts you hold offshore, or deals you have made with overseas entities, now is the time to talk to us about them. ●

Work place pension contributions

If your business has a workplace pension which complies with the auto-enrolment rules, that scheme must receive a minimum level of contributions on behalf of each employee who is enrolled in the scheme. This level of contributions is expressed as a percentage of the employee's pensionable pay.

The rules of the particular scheme will define what pensionable pay is for each employee, as this can vary from scheme to scheme. For example, pensionable may be the amount paid between the NIC lower earnings and upper earnings limits: £6,032 to £46,350 for 2018/19.

The minimum total pension contribution from employees and employers for 2017/18 and earlier years was 2% of pensionable pay, with the employer contributing at least 1%. The total minimum contribution for 2018/19 jumps to 5%, and the employer must contribute at least 2%, with the remainder contributed by the employee.

There is no minimum contribution level set for employees, as many workplace pension schemes operate through salary sacrifice arrangements, so the employee's pay is reduced to compensate for the pension contributions made by the employer. From 6 April 2018, where the employer pays the minimum amount, the employee's contribution will triple from 1% to 3% of pensionable pay.

Such an increase in pension contributions will, in many cases, cancel out the tax savings from the rise in the individual's personal allowance and NIC lower earnings threshold.

You may wish to review the amount your business is contributing to staff pensions, to ensure that your employees are not worse off in 2018/19. Remember, as an employer you are not permitted to encourage an employee to opt out of the workplace pension scheme. You must be very careful how you communicate the changes in pension contributions to your employees. ●

Make a tax-smart Will

Has your Will been drafted so Inheritance Tax (IHT) will be due at 36% rather than 40% on your death?

The reduced rate of IHT applies when at least 10% of your net estate is left to charities. This is the value of your estate after deduction of the nil rate band, and it may be referred to as the 'baseline amount' in Wills drafted after 6 April 2012. A Will made before this date is unlikely to include a specific provision for 10% to go to charity.

Your Will doesn't have to specify which charities should benefit and how much each will receive. Those details can be included in an expression of wishes, which is a private letter from you to your executors and is normally kept with your Will. ●

Loans and interest

Directors and employees sometimes borrow from their company, intending to pay the money back, but the actual repayment gets delayed. This can lead to a benefit in kind tax charge on the individual, and a class 1A NIC charge for the company.

These charges can be avoided if the amount borrowed at any point in the tax year doesn't exceed £10,000. If a greater amount is borrowed, there will be no tax charge if the individual has agreed to pay interest on the loan at a rate equal to or greater than the Official Rate (2.5%).

This interest must actually be paid to the company, not just accrued. Although there is no deadline for paying the interest, it's best to pay before 6 July following the end of the tax year, as that is when the form P11D must report any interest-free loans.

Directors and their family members can trigger an additional tax charge for the company if they don't repay their loans promptly. That tax charge is calculated as 32.5% of the loan balance which is outstanding more than nine months after the end of the accounting year in which the loan was advanced. There is no minimum threshold for this tax charge. ●

National minimum wage and directors

The National Minimum Wage (NMW) rates increased for pay periods beginning on and after 1 April 2018. The rate for those aged 25 and over (also called the living wage) rose from £7.50 to £7.83 per hour, an increase of 4.4%.

The three other NMW rates vary from £4.20 to £7.38 per hour, according to the employee's age. Individuals who are enrolled on an approved apprenticeship may be paid a reduced rate of £3.70 per hour for the first year of their apprenticeship, or while they are under the age of 19. Interns generally must be paid the NMW, but what about directors?

If the director does not have a contract of employment with the company and is effectively only paid for his role as an office-holder, the NMW does not apply. However, where the director does have an employment contract with the company, he will be treated as an employee for NMW purposes, and the NMW should be paid for all the hours he works.

Where the company has a number of employees, good employment practice is to require all employees and directors to sign a declaration to say they understand their rights and responsibilities as set out in the company's employment handbook. Such a declaration will amount to an employment contract where the handbook sets out all the employment conditions. Thus, directors who sign the declaration will have signed an employment contract with the company.

If the company comes under scrutiny for NMW issues, HMRC will want to examine the pay calculations for everyone on the payroll, including the directors.

The penalty for failing to pay the correct amount of NMW can be up to £20,000 per employee. If the company is fined for NMW violations, and the total underpayment is £100 for the whole payroll, it will also be included on the 'named and shamed' list of employers. ●

VAT on rewards for crowdfunding directors

It is always tough to raise funds to develop new inventions into viable products, but crowdfunding websites can help. The prospective investors are asked to commit to a set level of funding, and in return each is promised a package of rewards, tailored according to the value of their pledge.

When you use such a crowdfunding arrangement, you need to be clear about the VAT implications of those reward packages, to ensure that VAT is accounted for at the right time and on the right amount.

HMRC treat the promise of rewards as a voucher for VAT purposes, or sometimes as a pre-payment for goods or services. If the reward comprises just one product, the VAT treatment is simple; the VAT is due when the investor hands over his money.

Complications arise when the reward package includes a number of items or services which carry different VAT rates. The package is treated as a multi-purpose voucher and the VAT is due when the investor receives his rewards.

The difference in the VAT point (i.e. the date on which the transaction takes place for VAT purposes) between a single product voucher and a multi-purpose voucher can be a considerable time period. If your business has not already registered for VAT when it starts to receive money through crowdfunding, the package of rewards can determine when you must register for VAT.

Our VAT experts are happy to advise on all the tax aspects of crowdfunding, so don't leave tax as an afterthought. ●