2018 AUTUMN NEWS

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Preparing for Brexit

There are now less than six months until the UK leaves the EU, and we still don't know the terms of the withdrawal agreement. It is possible that the UK will leave the EU without a deal, which would have wide implications for many UK businesses.

Whichever side of the leave or remain fence you stand, it is now essential that businesses prepare for the potential disruption which Brexit could bring.

The European Commission has published detailed notices to advise businesses of the effects of the UK leaving the EU. These notices cover topics from e-commerce to VAT, and are available in English on https/ec.europa.eu.

The UK Government's guidance on how to prepare for a no deal Brexit can be found on gov.uk. This guidance suggests that there may be disruption to supply chains due to congestion at ports.

Some large businesses are starting to stockpile goods and raw materials in the UK, to cover for two to three months of disruption. Certain manufacturers are bringing forward their planned annual shut-down from Summer to Easter 2019, to avoid unplanned stoppages to production lines should parts fail to arrive on time.

Smaller businesses also need to prepare. Examine your supply chain to identify the risks which delays in delivery would pose to your business. How much stock can you hold of materials and finished goods?

Your suppliers won't want to stockpile goods which they are not certain of selling. If you will need particular products delivered or printed in April or May 2019, get your order in early so the items needed for your business are reserved.

We can help you model the effects on your cashflow and profits which disruption to supply chains could impose on your business, but the time to start planning is now. ●

RTI late filing penalties

The intended purpose of Real Time Information (RTI) reporting of payroll data is to update universal credit accounts with individuals' actual pay within days of their pay date. RTI reporting also allows employees to view their latest tax position through their online personal tax accounts.

However, those accounts won't be up to date if employers don't report payroll data on time. HMRC should receive the Full Payment Submission (FPS) report on or before the employees' pay date, and automatic penalties can apply if the RTI reports are submitted late.

The best way to avoid penalties for late RTI reporting is to do your payroll tasks in this order:

1. Run the payroll
2. Make the RTI submissions
3. Pay the employees

Currently, the HMRC computer won't issue a penalty if the RTI submissions are made within three days of the employees' payday. This temporary grace period isn't an extension to the deadline; if you consistently file within this three-day window HMRC may write to warn you that a penalty will be issued. You are permitted one late RTI filing in the tax year before a penalty is issued.

If you have had to file an FPS late, get your excuse in early by including the appropriate code letter in the late reporting field in the submission. The code for having a reasonable excuse is "G". ●

VAT option to tax

If you have owned your commercial building for 20 years or more, you should review its VAT status. Such older buildings won't have VAT attached to their sale or rent, unless the owner or leaseholder has opted to apply VAT, the so-called 'option to tax'.

So ask yourself these questions about your commercial property:

- Have you ever made an option to tax on this property?
- If you opted to tax, can you prove that? The evidence would be a copy of form VAT1614 and acknowledgment from HMRC.
- If you opted to tax the building more than 20 years ago, is it now appropriate to revoke that election?

You will need quick answers to all of these questions if you want to sell the property, as the buyer's legal team will certainly ask for evidence that VAT on the sale is being correctly charged. Not all businesses can recover VAT, so some purchasers will want to buy or lease a building which doesn't have VAT added to the price.

If you think an option to tax is in place, but you don't hold the evidence, you could write to HMRC asking for a copy of the election. However, HMRC will take weeks to reply, and when the election was made many years ago they may not have the paperwork either.

If you have never let the property, and it was acquired with no VAT charged on the purchase, it's probably safe to assume that an option to tax has never been made.

A common misunderstanding is that once a property is the subject of an option to tax it remains an 'opted property' when it is sold. This is not the case. Each subsequent owner can make an independent decision as to whether to opt to tax the building or not. ●

VAT and the construction industry

HMRC has long seen the construction industry as an area where tax avoidance is rife. The Construction Industry Scheme (CIS) was imposed as a means to prevent labourers dodging tax on cash-in-hand payments.

The latest dodge concerns VAT charged by labour suppliers to their customers, who are normally larger builders. The customer pays the VAT on the supply of labour, and reclaims the VAT as input tax on its VAT return. However, the labour supplier never pays the VAT over to HMRC, and often disappears before the taxman can catch up with them.

To counter this VAT avoidance, HMRC will introduce a reverse charge for VAT on labour supplies, with effect from 1 October 2019. This change is a year away, but it will take time to adjust your systems to the new rules.

Under the reverse charge, the customer (the large building company) will account for the VAT on labour supplies to HMRC, rather than the labour supplier. So the building company pays the VAT to HMRC (output tax) and reclaims that same VAT as input tax. The labour supplier issues an invoice which indicates that the supplies it has made are subject to the reverse charge.

The types of businesses affected by this new reverse charge include those involved in all aspects of construction of buildings or structures, including decoration and cleaning during construction. It won't cover the work of architects or surveyors. The reverse charge will apply up through the supply chain until the point where the customer is not making a supply of relevant services to another business. ●

Inheritance tax on your home

The total amount of Inheritance Tax (IHT) paid to the UK Treasury increases by around 10% per year. This is largely due to rising residential property values and the fact that the IHT nil rate band is frozen at £325,000 per person. IHT is payable at 40% above the nil band.

If you have children (step or adopted children count) some IHT may be saved by leaving an interest in your family home to one or more of your direct descendants. Such bequests allow the residential nil rate band (RNRB) to come into play, which is currently worth £125,000 per person, increasing to £175,000 from 6 April 2020.

The RNRB is added on to the normal nil band, to provide a total exemption of £500,000 per person (from 6 April 2020). This total exemption can be passed to the surviving spouse on death.

However, there are lots of conditions surrounding the RNRB. The interest in the property must pass to your direct descendant on death and not as a lifetime gift. If your total estate before exemptions and reliefs is worth over £2 million, the RNRB is tapered away by £1 for every £2 over that threshold. It therefore pays to plan to reduce the value of your estate down to £2 million, if that is possible.

Talk to us about planning to reduce the tax which will be payable on your death. ●

How to avoid IR35

The tax avoidance rules known as IR35 have been in force since April 2000. They are designed to prevent employers and workers from reducing their tax and NIC bills by placing a company structure between the worker and the employer.

Unfortunately, it is difficult for HMRC to tell whether a small company has been inserted as an artificial step, or whether it is a genuine service business. If you operate through your own personal service company, you may need to prove to HMRC that your company is a genuine independent business and that you aren't a disguised employee of your customer.

Here are some ways to show you are independent and that you are not caught by the IR35 rules:

- Work for several different customers, preferably concurrently, but certainly over a year
- Agree with your customer that you will provide a substitute if you can't perform the contract personally
- Provide most or all of your own equipment
- Correct any faults in your work in your own time and at your own cost
- Work under your own direction as much as possible
- Don't accept benefits which your customer normally provides to its employees
- Don't attend social or training events hosted by your customer for its employees
- Don't become part of the structure of your customer's business
- Don't become economically dependent on one customer

Do discuss your working arrangements with us if you are concerned that you could be caught by IR35. ●

Electric cars

Employees who drive electric company cars can feel short-changed, as they charge-up at home, but don't get reimbursed for the power used on business journeys. Now employers can reimburse drivers of electric company cars up to 4p per mile for each business mile driven since 1 September 2018, with no tax implications.

What's more, the company can allow employees to charge company or privately owned electric vehicles at the company's premises for free, without incurring a taxable benefit.

The downside of having an electric company car is the high taxable benefit, currently calculated as 13% of the vehicle's list price when new. This is due to rise to 16% of the list price for 2019/20, but strangely will drop back to 2% from 6 April 2020. If you are thinking of taking on an electric company car, you will save tax if you wait until 2020.

When you change your company car for a different model you should report this to HMRC through your online personal tax account (www.gov.uk/personal-tax-account). The employer is only required to inform HMRC when the

employee is provided with a company car for the first time, or the car is withdrawn.

If you are provided with an electric van by your employer, you will be taxed on £1,340 for using the van on private journeys, other than commuting. This taxable benefit is likely to rise to around £2,000 for 2019/20, which is considerably less than the taxable benefit for having an electric car. ●

SEIS investments

The Seed Enterprise Investment Scheme (SEIS) is specifically designed for young companies to raise relatively small amounts of start-up capital. The investors receive 50% income tax relief on the amount they subscribe for new shares, and any gains are exempt from Capital Gains Tax (CGT) when the shares are sold after three years or more.

There is no minimum amount the company may raise, and no minimum each equity investor is required to commit, but there are maximum limits. The company is permitted to raise up to £150,000 over a three-year period, and the maximum SEIS investment per taxpayer is capped at £100,000 per tax year.

Companies which use SEIS tend to be risky ventures. Investors who subscribe for SEIS shares balance the chance that they will lose their money, with the possibility of making tax-free gains when the company is a success, and they can sell their shares at a large profit.

If you have made an SEIS investment, however small, you should claim the income tax relief due. Don't miss out this step, as when you sell your shares you must show that you have claimed the income tax relief in order to benefit from the CGT exemption. ●

Pension lump sum

If you have received a lump sum payment from your pension fund you may have had excess tax deducted from it. This happens, for example, because the pension provider tends to use an emergency PAYE code for the first payment you take from your fund.

If you have had tax incorrectly deducted from a lump sum payment, you will get it back from HMRC if the pension scheme doesn't refund it. However, there are several different claim forms, depending on the circumstances. We can help you with those forms.

If you do expect to take further pension payments in the same year, the tax repayment should be made when you receive the next pension instalment. However, for this to work, your PAYE code needs to be adjusted.

You can request a new tax code from HMRC through your online personal tax account. Alternatively, you can phone HMRC to ask for the code to be changed.

We can do this on your behalf if you have authorised our firm to act for your personal tax affairs. ●

VAT on imports and exports

When you import from, or export to, countries in the EU, you generally don't have to worry about VAT or customs duties. That may change when the UK leaves the EU at 11pm on 29 March 2019.

It's possible that the UK will leave the EU automatically by operation of the law (having triggered Article 50) with no withdrawal agreement in place. In that case the UK will immediately be treated as a third country in relation to the EU for all trading purposes, including for customs duties and VAT.

For imports, the VAT will have to be paid at the border before the goods can enter the UK. Similarly, your EU customers will have to pay VAT at the border when they buy goods from your company which is based in the UK.

Exporting is more complicated. For example, to ship goods into the EU your business will need an EORI number, and the commodity code for the goods. You may also need a special licence to move the goods, particularly for food or animal products, and tariffs may be imposed under World Trade Organisation (WTO) rules.

If all your overseas business is currently done with customers or suppliers in other EU countries, you will need to quickly get to grips with VAT on imports and exports and the customs procedures required. HMRC has recently written to businesses in your position, with advice on where to look for guidance on those issues.There are nine detailed Government guides on importing and exporting procedures that will come into force if there is no deal on the withdrawal from the EU, which you can read here: https://tinyurl.com/NodealBRImEx ●

Tax refund claims

You don't have to wait until the end of the tax year to reclaim any tax you have overpaid. It is now quite simple to do this through your online personal tax account (www.gov.uk/personal-tax-account).

If you are still employed, your PAYE code should be adjusted so you receive your tax repayment as an addition to your next salary payment. However, young people who have worked during the summer to build up savings for university, may no longer have a job through which the tax repayment can be made.

These students may have had too much tax deducted from their wages, as £987 of their personal allowance is set against their salary each month, but over the whole year they may earn less than the full personal allowance of £11,850.

If the student doesn't plan to earn a wage during the Christmas break, it would be worthwhile claiming a tax refund. This can be done by applying through their online personal tax account, or by calling HMRC. Be sure to note the date and time when calling HMRC, the name of the HMRC adviser, and who said what.

Tax refund claims can be made for the previous four tax years as well. The earliest year you can claim for is now 2014/15. ●

Class 2 NIC is not abolished

Self-employed individuals pay two types of National Insurance Contributions (NIC); Class 2 at a flat rate of £153.40 per year if annual profits are at least £6,205, and Class 4, which is calculated as 9% of profits above £8,424, reducing to 2% of profits above £46,350.

Class 2 NIC buys entitlement to the state pension and certain other benefits; Class 4 NIC buys no such entitlements.

The Government had proposed merging Classes 2 and 4 NIC. The self-employed would pay one class of NIC, which would provide state benefit entitlements, and a NIC credit would be given for profits between £6,205 and £8,484. However, it has now decided not to go ahead with that merger.

This is good news for those with profits of less than £6,205, as they can continue to pay Class 2 NIC voluntarily at £153.40 per year, to accrue state pension entitlements. The alternative for those with very low profits would be to pay Class 3 NIC of £761.80 per year, but Class 3 NIC doesn't provide entitlement to other state benefits.

Non-resident individuals, who previously lived in the UK for at least three years and paid NIC during that time, will also be able to pay Class 2 NIC on a voluntarily basis to build entitlement towards the UK state pension and other benefits. ●

VAT will be digital

The new Making Tax Digital (MTD) rules will require most VAT-registered businesses to keep all their VAT data as digital records, and submit VAT returns to HMRC using MTD-compliant software. This will apply for VAT periods starting on and after 1 April 2019.

In theory there should be no human cutting and pasting, or retyping figures, at any stage between the initial recording of the transaction and the submission of the VAT return. All transfers of data between different software packages should be via digital links, which can be as complex as a suite of accounting software, or as simple as spreadsheet figures automatically read into an accounting package.

The digital links can stretch between your business and our firm using cloud-based software. Transferring the VAT data as a spreadsheet attached to an email, or on a data stick, will also count as a digital link.

HMRC realise that there is not enough time to redesign all accounting systems to insert digital links where there are currently manual stages, so the use of digital links will not be compulsory until April 2020. However, it will be necessary to use accounting software to submit the VAT return to HMRC using an Application Programme Interface (API) for VAT periods starting from April 2019.

An API is like a delivery van which carries data to HMRC and back to the business. HMRC's computer will receive the VAT return, then send an acknowledgment back to the business through the API.

VAT-registered businesses with annual turnover under the VAT registration threshold (currently £85,000) won't have to enter the MTD regime until their annual turnover reaches that threshold. If your business will be required to use MTD for VAT you should shortly receive a letter from HMRC setting out what you need to do.

Please talk to us if you are concerned about how to comply with the digital recording and the VAT return submission processes required under the MTD regime. ●

Tax relief for clothing

There is an overriding rule when claiming a deduction for the cost of clothing as a self-employed individual; the garment must be wholly and exclusively used for the purpose of your business. This is normally the sticking point with clothes – they are generally needed for warmth and decency, so the 'exclusively' part of the condition fails.

However, where the purpose of the clothing is to protect the individual or products, and the items are required to be worn in the work environment, the cost will be tax deductible. This would apply to hard-hats and high visibility jackets worn on building sites, or hairnets and latex gloves in a food factory.

The cost of a uniform required to be worn at work can also be deducted. To qualify as a uniform the items must not be part of your everyday wardrobe, and should be easily identified as a uniform by the logos attached to the items, colour or styling.

Performers who need to wear a costume for their act can claim for the cost of the clothes, make-up, wigs, and shoes used in the performance. However, where such clothing could be worn as everyday wear, such as a business suit, the cost will not be deductible.

If you want to claim for the cost of clothes or footwear you wear at work, you must keep a copy of the receipt (a digital picture is fine), and record why you need the item for your business. ●

VAT MOSS is changing

Businesses that sell digital services (eg, ebooks) to non-business customers in other EU countries need to account for the VAT due at the rate applicable in the country where the customer belongs. This rule currently applies to any amount of digital sales made – there is no *de minimis* threshold.

The VAT charged to those overseas customers must be reported through the VAT MOSS system for each calendar quarter, unless the business is going to register for VAT in each separate jurisdiction that it sells within.

The good news is that a minimum sales threshold of €10,000 (£8,818) is being introduced from 1 January 2019 for digital services sold to consumers in other EU countries. A business can ignore the VAT MOSS rules if the value of its digital services sold to overseas customers in the calendar year is below that threshold, and the sales for the preceding year were also under that threshold. The business will have to apply the VAT rules of its home country to any sales it makes.

The bad news is that this *de minimis* sales threshold only applies to businesses which are located within an EU country. When the UK leaves the EU on 29 March 2019, unless the VAT MOSS rules are covered in the EU withdrawal agreement, the new sales threshold will disappear for UK businesses. UK businesses will then have to register for the VAT MOSS non-EU scheme in an EU member state. ●