Fairhurst

Accounting for your potential

Newsletter

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IN THIS ISSUE:

Countdown to off-payroll rules change

The extension of the public sector off-payroll working rules (known as IR35) to the private sector is still set to go ahead in April 2020, despite the postponement of the Budget and a call from the Federation of Small Businesses (FSB) for the change to be delayed.

However, in January the government launched a review of the proposed changes to address concerns from businesses and affected individuals about how they will actually work. The review will determine if any further steps can be taken to ensure the smooth and successful implementation of the reforms.

> *From 6 April 2020, medium and large private sector and third sector organisations will also have to determine employment status of contract workers.*

The rules apply where a worker provides services through an intermediary – usually their own personal service company. Such workers would have been classed as an employee if they had worked directly for the end user of the services.

Where the end user is a public sector organisation, that organisation is responsible for determining the worker's employment status. From 6 April 2020, medium and large private sector and third sector organisations (e.g. charities) will also have to determine the employment status of contract workers. If the worker is deemed an employee, the end user must pass the employment status determination to the organisation that pays the intermediary, which must then account to HMRC for tax and national insurance contributions. Any decisions can be challenged by the intermediary or worker.

Determining employment status can be difficult. HMRC offers an optional 'check employment status for tax' (CEST) tool designed to enable workers and hiring organisations to decide whether an engagement is an employment for tax purposes. Several cases have ended up in the Tax Tribunal, most recently that against Helen Fospero, a TV presenter. Although she was required to perform the services personally and ITV retained editorial control, other factors pointed towards self-employment and HMRC lost the case.

If you think you may be affected by the changing rules, get in touch.

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TAX

What's coming in the new government's tax plans?

With the Conservative Party's election victory in December, businesses now have a clearer idea of what tax changes could be introduced in April, and over the life of the new parliament

Directors and the self-employed can take comfort in the promise not to raise rates of income tax and national insurance contributions (NICs), although the value will be less reassuring if tax thresholds are not increased in line with inflation. There is also going to be no increase in VAT rates.

The level at which NICs start to be paid will be raised from £8,632 to £9,500 from April 2020, with a possible increase to £12,500 by the end of a normal five-year parliament.

There will be a one-year NICs holiday if you hire someone after they have left the armed forces. A further measure will see the employment allowance increased from £3,000 to £4,000.

Credit: Ann in the uk/Shutterstock.com

Companies and business property

Unsurprisingly the previously announced cut in the rate of corporation tax to 17% has been cancelled, with the rate remaining at 19%. The tax credit for research and development (R&D) expenditure for large companies is going to go up from 12% to 13%, with the definition of R&D revised to include investment in cloud computing and data.

Brick and mortar businesses continue to face challenges:

- Business rates will be reduced, with the government carrying out a fundamental review of the system. A further reduction to business rates for retail businesses will follow the one-third retail discount already introduced for 2019/20 and 2020/21.
- The rate of structures and buildings allowance will be increased from 2% to 3%. However, the allowance is only available for properties constructed since 29 October 2018.

The Enterprise Investment Scheme and Seed Enterprise Investment Scheme will continue but a proposed "review and reform" of entrepreneurs' relief has potentially ominous implications.

We will update you after the Budget in March.

BUSINESS

Businesses losing out to fraud

The cost of business losses from fraud and scams reached £682m in 2018/19, according to figures from Action Fraud, with nearly 60,000 reported cases.

While larger businesses are more likely to be able to absorb the impact, smaller businesses are at far greater risk of serious financial implications.

Three types of fraud stand out from the Action Fraud figures:

Employee fraud	£213.7m
Mandate fraud	£99.3m
Plastic cards and online bank accounts	£98.1m

Employee fraud

Reported losses from employee fraud are on the rise. Examples include the misuse of corporate cards, claiming personal items as business expenses and claiming unworked overtime.

You can help to reduce your vulnerability to such abuses by fostering a loyal environment, so whistle-blowers feel they are able to come forward in confidence without any fear of reprisals. Staff may have suspicions or evidence about a colleague's fraudulent behaviour, but feel hesitant in raising concerns.

Payment frauds

Mandate fraud occurs when an employee is deceived into redirecting a regular payment mandate (such as a direct debit, standing order or bank transfer) to a fraudster's bank account. The regular payments means that losses are likely to be higher than for one-off invoice fraud. Verify requests for amended payments with the organisation or supplier in question directly using established contact details.

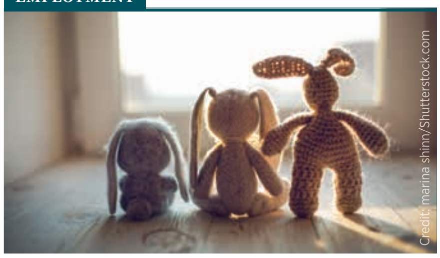
There is considerable scope for fraud where debit/credit cards are lost or stolen, if card details are cloned or if online banking details are compromised.

Even the fast vanishing cheque can still be used in a scam – where a business receives a cheque for too much money and is asked to return the balance electronically.

More sophisticated schemes can involve fraudulent payroll companies, co-employment of a workforce and the use of umbrella companies.

If you need help securing your business from fraud, we can assist you.

EMPLOYMENT



Credit: marina shinn/Shutterstock.com

Bereavement leave from April 2020

Bereaved parents and primary carers are to receive new employment rights.

If a child under 18 dies after 5 April 2020, parents and primary carers will be entitled to up to two weeks' leave, taken as two single weeks or one block of two weeks. This will be paid leave for employees with 26 weeks' continuous service subject to a minimum earnings condition. For others, it will be unpaid. The leave must be taken within 56 weeks of the child's death. Parents will also qualify where a baby is stillborn from 24 weeks of pregnancy.

Primary carers include adopters, foster parents and guardians who have had the child living with them for at least four weeks up to the death and meet some other conditions.

Parents and primary carers will also be entitled to a new statutory bereavement pay, treated as earnings for tax and national insurance.

TAX

Year end tax planning time – use it or lose it

The end of the 2019/20 tax year is approaching and some of your tax reliefs and allowances will be lost if you have not used them before 6 April 2020.

Savings, pensions and income

Income and gains arising in individual savings accounts (ISAs) are free of tax. You can invest up to £20,000 in ISAs in each tax year, but unused allowance cannot be carried forward. You can invest in one cash ISA, one stocks and shares ISA and one innovative finance ISA each tax year. If you are aged 18 to 39 you can, within the overall limit, invest up to £4,000 in a lifetime ISA.

There is an annual limit of £40,000 on pension contributions that qualify for tax relief, reduced to £10,000 or £4,000 in certain circumstances. You can carry forward unused annual allowances for up to three years to offset against a contribution of more than the annual limit.

- Tax relief on pension contributions is at least 20% but may be up to 45% (46% in Scotland). You may be able, year by year, to maximise the amount of pension contributions that qualify for relief greater than 20%.
- People with little or no earnings can contribute up to £2,880 to a personal pension and still receive tax relief regardless of tax status. You could set up a pension for your partner or children.

Directors and some employees could avoid the highest income tax rates for this tax year, or the next one, by delaying or bringing forward income, such as a bonus or dividend.

If your business is affected by the off payroll working rules (IR35) you should calculate how much salary to draw before 6 April 2020 to avoid being taxed on a 'deemed payment'. You also need to plan for the expected off-payroll working rule changes from April 2020.

Planning for couples

Couples may have more opportunities to plan their tax if they can shift income from one to the other.

- You should aim to use both individuals' personal allowances and minimise any higher and additional or top rate tax.
- Reorganising your investments between you may make better use of the tax-free allowances for dividend and savings income.
- If you are in business, you could pay your partner a salary or employer's contribution to their pension plan.

> *Directors and some employees could avoid the highest income tax rates this tax year by delaying or bringing forward income, such as a bonus or dividend.*

Capital gains

As far as capital gains tax (CGT) is concerned you should generally aim to use your £12,000 annual exempt amount by making suitable disposals before 6 April 2020.

- Careful timing of disposals before or after the tax year end may reduce the tax rate on your gains.
- Transferring assets between married couples or civil partners before disposal might save CGT.

CGT is usually paid on 31 January after the end of the tax year in which you make the disposal, so you could delay a major sale until after 5 April 2020 to postpone paying tax for 12 months. However, from 6 April 2020, a payment on account of CGT must be made within 30 days of a residential property disposal (where it is not an exempt principal private residence). So CGT will be payable much sooner on such a disposal made early in 2020/21 compared to one during 2019/20.

Procrastinating on year end planning rarely pays – April will be here quicker than you think.

TAX

Beware of honest mistakes

The First-Tier Tribunal has upheld a penalty charged by HMRC for reporting income and tax-deducted figures from an incorrect P60, although accepting that the taxpayer had made an honest mistake.

The error arose when the employer moved their payroll in-house, having previously outsourced the work. This meant a change of PAYE reference. Due to some confusion regarding the P45 issued by the previous payroll provider, the taxpayer's P60 for 2016/17 omitted earnings and tax deducted for the period April to August 2016.

The correct earnings for 2016/17 were £306,722, but, because of the incorrect P60, the earnings reported on the taxpayer's tax return were understated by £139,117. Although the taxpayer had queried the P60 figures with his employer, he had been assured they were correct.

Penalty

Although there was no tax underpaid, HMRC issued a penalty notice of £694.15 for a careless inaccuracy. This was not because of the incorrect P60 (the employer's responsibility), but because it was the taxpayer's duty to include all income on their tax return – and this could have easily been established by adding up payslip figures. HMRC therefore did not consider reasonable care had been taken.

Although the circumstances of this case are unusual, it does show the need to double check figures provided to you when preparing your tax return, especially where there is an obvious discrepancy.

BUSINESS

Expand green governance for your business

Global giant Ikea recently committed to investing an additional £171m in green energy and forest planting as part of their plan to become carbon neutral within ten years.

Your company might not be able to match that, but there are other ways to make your business more environmentally responsible as businesses come under increasing pressure from government, clients and employees.

Green travel

For smaller and medium-sized businesses, an obvious starting point is green travel.

There are a range of options, some of which you may already have in place. The following are neither complicated nor costly to implement:

- Cycling to work can be encouraged by providing employees with tax-free bicycles and safety equipment.
- Loans can be made to purchase season tickets as an alternative to an employee driving in to work.
- Promote car sharing by offering an enhanced mileage allowance per additional passenger.
- Arrange free or discounted travel on public bus services.

Provide showers and changing facilities for staff who want to walk, jog or cycle to work.

The impact of daily commuting can be cut even further if you can encourage flexible working from home.

Company cars

Changes to company car tax from 6 April 2020 provide a huge incentive to move to electric or hybrid vehicles. Pick the right car and your company will get a 100% up front deduction against profits, with the employee subject to little or no tax on their company car.


Credit: Circlephoto/Shutterstock.com

Embedding green policies

Focusing in-house, you can reduce energy use and make your products as ecologically safe as possible. Review your energy supplier and ensure company pension funds are invested ethically. Keep an eye on your use of plastics and purchase green products wherever possible from your supply chain, engaging with suppliers to change their strategies where needed.

TAX

New relief restriction on corporate capital losses

A reform of the tax regime for corporate capital losses takes effect on 1 April 2020.

The changes are along similar lines to the rules for carried forward income losses introduced in April 2017. However, there will be no increased flexibility in how capital losses can be used – relief will still be given only against capital profits.

At present a company's capital losses are netted off against capital gains arising in the same accounting period. Any overall chargeable gain is subject to corporation tax. Where losses exceed gains, the net loss may be carried forward and set against capital gains of future periods. Companies in a group can elect to transfer gains or losses to another group company.

Credit: William Potter/Shutterstock.com

The new restriction will apply to capital gains arising from 1 April 2020. Use of brought forward capital losses will be limited to 50% of the capital gains of the accounting period. However, companies will have unrestricted use of up to £5m capital or income losses each year. Companies will now have to allocate that allowance between capital gains and trading and non-trading income. Groups of companies will have one allowance.

The change does not affect the set-off of capital losses against gains of the same period, which will continue to be unrestricted. Unlike for income losses, all carried forward capital losses will be subject to the restriction regardless of when they arose. There will be transitional rules for accounting periods straddling 1 April 2020.

The restriction will only affect larger companies and unincorporated associations, because of the £5m deduction allowance. So companies making substantial capital gains will no longer be able to relieve them fully using their historic losses.

ESTATES

Probate fees hike cancelled

Plans to introduce a new probate fee banding structure with fees of up to £6,000 have now been officially dropped.

The intention was to introduce the revised fees in April 2019, but with near total opposition, the changes were never brought to a vote in the House of Commons.

Probate fees will continue at a flat rate of £215 where probate is obtained by an individual, and £155 if obtained by a solicitor. Similar fees apply for obtaining letters of administration where the deceased is intestate.

No fee is payable for very small estates of £5,000 or less, or where an estate is transferred to a surviving spouse or civil partner due to all assets being jointly owned under joint tenancy.

Minimal increases anticipated

Although probate fees are to be included in a wider review of court fees, this is expected to involve relatively small adjustments being made just to cover costs.