Fairhurst

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Newsletter

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Remote working is here to stay

Working from home has again become the default position for many workers and could continue for another six months. But not all can. Employers need to ensure safe and sustainable working environments for all their employees.

Many have found working from home very effective because it avoids office distractions and reduces commuting. Working more flexibly can often mean being able to fit work around family responsibilities, especially when children may be sent home from school to isolate at short notice. Such factors can create a happier and more diverse workforce.

For those continuing at home, their physical workspace should be properly equipped, not just with their computer but also a good chair and table. Communicating expectations clearly is important. Staff should take regular breaks and not work excessively long hours.

> *Employers need to have a fair procedure for determining which employees can work at home and when. Consultation with staff is essential.*

For some employees, however, working from home can have a negative impact on morale, productivity and overall mental health. A Covid-secure workplace may be the best place for them to be and employers should be able to offer this alternative.

Some employees could work partly at home and partly in the workplace. Employers need to have a fair procedure for determining which employees work where and when, considering employees' personal concerns and circumstances as well as business needs. Consultation with staff is essential.

It's clear the pandemic has triggered an increase in workplace stress, anxiety and depression, whether directly from fear of the disease, or indirectly, because of changes to ways of working, isolation or concerns about money and job security.

Employers have a duty of care to ensure the health and safety of their workforce, so far as reasonably possible, including employees' mental health and wellbeing. Staff should feel safe to discuss such concerns without fear of stigma within an effective framework of policies and systems to identify and manage mental health issues.

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EMPLOYMENT

Incentivising job retention

A new Job Retention Bonus of £1,000 per employee has been designed to encourage the retention of furloughed staff after the Coronavirus Job Retention Scheme (CJRS) ends on 31 October 2020.

The bonus can be claimed for all eligible employees, including company directors and agency workers. A claim under the new Job Support Scheme (running for six months from 1 November 2020) will not affect eligibility.

Conditions

The one-off payment of £1,000 will be given for every previously furloughed employee who remains continuously employed through to 31 January 2021. But the bonus will only apply to those employees who have been legitimately furloughed.


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- Eligible employees must earn at least £520 a month (the NIC lower earnings limit) on average between 1 November 2020 and 31 January 2021 – therefore a total of at least £1,560 across the three months. However, there must be some earnings in each of the three months.
- The employee must not be serving a contractual or statutory notice period which started before 1 February 2021.
- The employer must comply with their RTI payroll reporting obligations through to 31 January 2021.

Only those earnings reported under the employer's RTI (real time information) payroll will count towards the £520 a month average minimum earnings. For directors especially, it will be important they are paid sufficient salary each month.

Special cases

There are specific provisions for certain groups.

- **Fixed term contracts** An employee's fixed term contract can be extended or renewed without affecting bonus eligibility, provided they remain in continuous employment.
- **TUPE transfers** The bonus will also be available where an employee transfer is protected under the TUPE legislation (and in certain other similar circumstances). The transfer must have occurred before 31 October 2020, there must have been continuous employment and the new employer must have submitted a CJRS claim for the employee.

Employers will be able to claim the bonuses after filing their PAYE for January 2021. Payments will be made from February 2021.

The bonus will be taxable, so the amount received must be included as income when calculating taxable profits.

TAX

Reliefs and retained profits

Could retaining profits in your trading company to avoid higher rates of income tax close off other beneficial tax reliefs?


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There's nothing wrong with this in the short term, but you need to be aware of how cash, investments and rental property on your company balance sheet can impact on the longer term availability of tax reliefs.

Capital gains tax reliefs

Two major capital gains tax (CGT) reliefs may be available: business asset disposal relief on the disposal of your shareholding, and also holdover relief if you gift your shares.

Non-trading activities must not be 'substantial', meaning that they should not normally amount to more than 20% of the value of the company's total activities or assets. However, HMRC applies this test 'in the round'. So even though cash balances or rental property may dominate the balance sheet, the test might be met based on the proportion of: investment income, non-trade related expenditure and time spent on non-trading activities.

Your actual situation could be much more complicated than this. Some cash balances could be left out of the equation if they are deemed necessary for future trading purposes, rather than being surplus to requirements. Investments or rental property can mean holdover relief is not available.

IHT business property relief

Access to this relief is dependent on establishing that your company is not mainly an investment company, with 'mainly' in this context meaning more than 50%. An 'in the round' approach again allows more leeway. Relevant factors to consider include:

- respective ratios of asset values, profit and turnover;
- time spent; and
- overall context of the business.

However, relief is restricted where there are 'excepted assets' on your company's balance sheet. These are assets not used wholly or mainly for business purposes, with a particular problem being a large surplus cash balance.

Holding investments or rental property, rather than cash, should get around the excepted asset issue, provided the 50% test is still met. However, this will then jeopardise holdover relief, so seek expert advice.

TAX

Van benefit charge

The van benefit in kind charge will be abolished for fully electric company vans used privately by an employee from 6 April 2021. The government's aim is to increase the uptake of zero emissions vans.

Employees are currently subject to a benefit in kind charge if they have the use of a company van and use it privately. The definition of 'private use' for a company van does not include an employee's normal commute to work. Over recent tax years, the fully electric company van benefit charge has been set at an increasing percentage of the full charge, and for 2020/21 it is 80% (£2,792) of the full amount.

Fully electric vans already escape any fuel benefit charge because electricity is not treated as a fuel, even if the employer installs a vehicle charging point at the employee's home or provides a charge card to allow access to commercial charging points.

TAX

Tax treatment of Covid-19 support payments

Your business may be receiving various government grants to help mitigate loss of income because of Covid-19. In his Winter Economy Plan on 24 September and subsequent October update, the Chancellor announced additional support schemes. But be aware: these grants are taxable.

Payments from the following schemes must be included in calculating taxable profits:

- Self-Employment Income Support Scheme (SEISS) including the extended scheme.
- Coronavirus Job Retention Scheme (CJRS), including the job retention bonus for previously furloughed employees who are still employed at the end of January 2021.
- Job Support Scheme (JSS) running from 1 November.
- Small Business Grant Fund (SBGF).
- Retail, Hospitality and Leisure Grant Fund (RHLGF), Discretionary Grant Fund (DGF) or their parallel schemes in the devolved administrations.
- Other payments made by public authorities to businesses in response to Covid-19 and any other Covid-19 support scheme.

These grants must be included in the business's taxable income for the period in which they are received because they replace business income. But businesses will only have to pay tax on the grants if they make a profit in the accounting period in which they receive them. Many businesses will still make a loss even after including any grants in their income.


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SEISS grants

HMRC estimates that up to 3.4 million individuals were eligible for SEISS payments under the first scheme. The scheme has now been extended in a new form for six months from 1 November 2020. However, many people are excluded as they were under the original SEISS, including the newly self-employed, those with trading profits of more than £50,000 and people operating as directors of their own limited companies. The new SEISS is also limited to self-employed individuals who are actively continuing to trade but are facing reduced demand because of Covid-19.

> *Businesses will only have to pay tax on grants if they make a profit in the accounting period in which they receive them.*

HMRC will have the power to raise income tax assessments to recover amounts from any recipients of SEISS CJRS payments to which they are not entitled or where a CJRS payment has not been used to pay furloughed employee costs. HMRC will also be able to charge a penalty in cases of deliberate non-compliance.

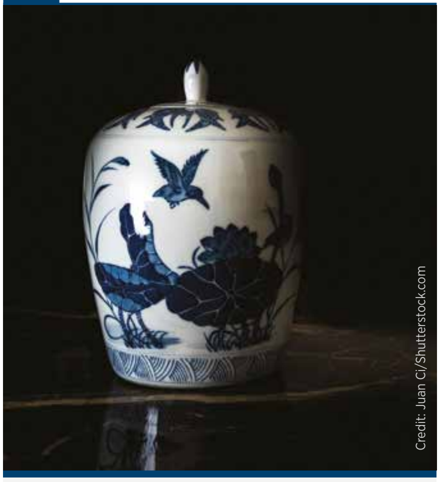
Tax returns and tax payments

Many self-employed individuals will include SEISS payments in accounts that form the basis for their 2020/21 tax return. They will need to factor in these grants when deciding whether to reduce their payments on account for 2020/21, which are payable on 31 January and 31 July 2021.

These payments are based on taxable income for 2019/20, a period before businesses were impacted by Covid-19. Self-employed people were initially able to defer their second payment on account for 2019/20 until 31 January 2021, which would normally have been payable on 31 July 2020. Further time to pay was announced in September for taxpayers – self-employed and others – with up to £30,000 self-assessment liabilities. They will be able to use HMRC's self-service Time to Pay facility to arrange a plan to pay over an additional 12 months – up to January 2022.

Businesses in England required to close because of local lockdowns or targeted restrictions will be able to receive grants worth up to £1,500 per property every three weeks. These grants will also be treated as taxable income. An additional wage subsidy scheme paying up to 67% of wages for those affected was also announced in early October. If you need help with any Covid-related payments, please get in touch.

TAX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Capital gains tax in the spotlight

Government support for business during the Covid-19 pandemic has left a huge hole in the Treasury's finances. Tax rises could be on their way, with capital gains tax (CGT) under review.

CGT is paid mainly by wealthier people. Chancellor Rishi Sunak recently asked the Office for Tax Simplification (OTS) to examine the way people who sell second homes, works of art and stocks and shares can escape paying tax on their gains. This comes at a time when CGT receipts are expected to fall as a result of reduced values of property and shares.

Mr Sunak said he also wanted the OTS to report on how CGT rates compare with other taxes and how the present rules can distort behaviour. CGT is paid at 28% by higher and additional rate taxpayers selling residential property, compared with up to 45% on income. Equalising CGT and income tax rates could raise up to £14 billion year.

Profits on sales of other assets are taxed at up to 20%. Business sales may be taxed at just 10% and CGT reliefs may permit taxpayers to defer CGT by reinvesting in qualifying new assets.

It is too early to say whether and when CGT might rise. Coronavirus-related measures may push reforms onto the back burner. But it would be wise to review your CGT position in readiness for the spring Budget and consider the optimum time to realise any gains.


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BUSINESS

HMRC checks up on CJRS claims

With the end of the Coronavirus Job Retention Scheme (CJRS) on 31 October 2020 just days away, HMRC is already reviewing claims.

Under the CJRS, from 1 October the government has paid 60% of salaries up to a maximum of £1,875 for the hours an employee has been furloughed. Employers have had to top up employees' pay to ensure they received 80% of their pay – up to £2,500 – for the time they have been furloughed. These caps are reduced proportionately for employees who are only furloughed for part of their usual hours. Employers have also been required to meet the cost of employer's national insurance and pension contributions.

Accurate assessments

Throughout the scheme, which ran from 1 March 2020, employers have had to determine whether they have met the requirements for the CJRS and calculate grant claims accurately. HMRC is now checking claims and wrote in August to around 3,000 businesses that may have claimed more CJRS grants than they have been entitled to, or not met the conditions to receive a grant, for example by including employees in their claim who were not eligible.

HMRC accepts that mistakes can happen, especially now. Employers may be charged penalties on excessive CJRS claims but they will avoid charges if they did not know they had overclaimed, and they pay back the excess grant voluntarily within the relevant period. For sole traders and partners this period ends on 31 January 2022 and for companies it ends 12 months from the end of their accounting period.

Businesses should review their CJRS claims without delay and tell HMRC about any overclaims within the notification period. This period ends 90 days after the business has received a grant to which it was either not entitled, or to which it is no longer entitled because of a change in circumstances.

If you have any queries please let us know.

BUSINESS

VAT on mixed supplies: confused?

The extended temporary reduction to the standard rate of VAT for the hospitality sector may be affected by the ongoing thorny issue of the VAT treatment of mixed supplies.

A mixed supply occurs when a business sells a mixture of goods or services, and more than one rate of VAT is involved in the transaction. Some key cases reveal the problems.

If you hire a car you pay VAT on the supply at the standard rate of 20%; but if you also hire a child seat, should you pay this full rate or rather the special 5% VAT rate for the supply of a child car seat?

The VAT treatment depends on whether:

- The car hire company has made a single supply of a car with a car seat, in which case 20% VAT should be charged on the entire supply; or
- The car hire company has made two separate supplies of the car and the car seat, in which case 5% VAT should be charged for the car seat hire.

The transaction is treated as a single supply if it is all one main supply, and the other supplies are just incidental. In this case, the decision was that the supply of a child car seat was an optional extra with a separate cost, and was therefore an economically distinct supply.

However, in a similar recent decision involving the hire of ice skates for a child at an ice rink, the skate hire was held to be incidental to the main supply of admission.

Hospitality sector

The reduced standard VAT rate of 5% applies from 15 July 2020 until 31 March 2021. This rate applies to food and non-alcoholic drinks, but not alcohol. Any mixed supplies are likely to be separate supplies. For example, a fixed price meal and wine offer will mean apportioning the price between the meal and the wine. As ever with VAT, expert advice may be required to disentangle the detail.

NEWS IN BRIEF

News round up

Making Tax Digital timeline

Making tax digital (MTD) for VAT currently covers businesses with a turnover above the VAT threshold. From April 2022, the VAT filing requirements will apply regardless of turnover. Then, from April 2023, MTD will apply to all self-assessment taxpayers with business or property income exceeding £10,000.

Vehicles with crew cabs are cars

The Court of Appeal has ruled that three vans modified with a second row of seats behind the driver are cars for the purpose of benefit in kind charges. The Court found that the vans had been converted into multi-purpose vehicles, and were no longer primarily suitable for carrying goods.

Another postponed Budget

Just before the Chancellor's Winter Economy Plan statement in September, the Treasury confirmed that the anticipated autumn Budget would be postponed until spring 2021. It may be worth bringing forward any year-end tax planning before new taxes are announced.

Personal pension retirement age

The government has confirmed that the minimum age for drawing a personal pension is to rise from 55 to 57 in 2028, which will affect anyone who is currently 47 or under. The change was originally announced in 2014 and is now due to become legislation.


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