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Insight

SPRING 2018

Class 2 National Insurance: not quite the end of the road

The government has announced that plans to abolish Class 2 National Insurance Contributions (NIC) are being put off for 12 months.

Class 2 payments will now continue until 6 April 2019, rather than ending on 6 April 2018. The delay will enable the government to look again at what abolishing Class 2 will mean for just under one million self-employed people whose profits fall below the 'small profits threshold.' This threshold is set at £6,025 per annum for the tax year 2017/18, rising to £6,205 in 2018/19.

Those with earnings below this level can at present choose to pay Class 2 in order to maintain a NIC contributions record, and there are concerns that if this option is removed, saving for a State Pension may become less affordable.

Welcoming a possible rethink, the Chair of the Low Incomes Tax Reform Group commented, 'The abolition of Class 2 NICs will be a significant change to how people contribute to qualify for certain benefits and the State Pension.'

Paying dividends

Dividend payment is a primary vehicle to extract cash from owner-managed businesses, but it's an area coming increasingly under HMRC's spotlight. Mistakes in procedure can have expensive tax consequences – so how do you get it right?

Legal position

Company law (s830 Companies Act 2006) says that a company is only entitled to make distributions out of profits available for the purpose. It defines this as accumulated realised profits minus accumulated realised losses. The Act also requires that a dividend is supported by relevant accounts demonstrating that profits are available for distribution.

For a year-end dividend, the statutory accounts are likely to be the relevant accounts, but what is the position for interim dividends? Here directors may be called upon to make what the law calls 'reasonable judgment' of the current financial position of the company, and its ability to meet debts as they fall due.

Responsibilities

Directors need to take this responsibility very seriously. Where shareholders receive a dividend, knowing at the time that there were not sufficient reserves available, they can become liable to make repayment: company directors may also become personally liable.

To pay a dividend lawfully, follow correct procedure. Good practice would suggest a directors' meeting to consider the accounts and declare the dividend; ensuring that this is minuted; and preparing a dividend voucher contemporaneously.

Some individuals and companies have lost at tax tribunals for neglecting points like these. A tribunal remarked in one case: 'There had not been any directors' meetings at or resolutions in which any of these amounts had been declared as dividends.' The tribunal held that the amounts were, in consequence, not dividends but earnings. Thus HMRC were entitled to recover PAYE income tax and National Insurance from the directors personally.

HMRC are becoming more vigilant here, particularly where insolvencies are involved. For advice on the payment of dividends, or to discuss remuneration strategies more generally, please do get in touch.

New rates and bands on the way

The UK Budget set out an increase in the personal allowance, which rises from £11,500 in 2017/18 to £11,850 in 2018/19. The basic rate band is £33,500 in 2017/18 and £34,500 in 2018/19. So the threshold at which the 40% band applies increases from £45,000 to £46,350 for those who are entitled to the full personal allowance.

For taxpayers treated as resident in Scotland, it's a different story. In 2017/18, (other than for savings and dividend income, where the £33,500 basic rate band applies), the basic rate income tax band for Scottish residents is £31,500. This means that Scottish taxpayers will generally pay higher rate tax if their income (other than savings and dividend income) exceeds £43,000, or if total income exceeds £45,000.

The Scottish Budget 2018/19 proposals include new tax rates and also new bands, making a total of five tax bands in all. For 2018/19, the rates and tax bands applicable to Scottish taxpayers on income other than savings and dividend income are expected to be as follows:

Scottish Bands	Band name	Scottish Rate
Over £11,850 - £13,850	Starter	19%
Over £13,850 - £24,000	Basic	20%
Over £24,000 - £43,430	Intermediate	21%
Over £43,430 - £150,000	Higher	41%
Over £150,000	Top	46%

The figures above assume the individual is entitled to a full UK personal allowance. The personal allowance will be reduced if an individual's adjusted net income is above £100,000. The allowance is reduced by £1 for every £2 of income over £100,000.

There is also change in sight for Welsh taxpayers, with Welsh rates of income tax in prospect from 6 April 2019.

Employers may need to nudge employees - Scots or Welsh - to be sure that HMRC are kept up to date with address details. Changes can be notified, and current details kept by HMRC checked, online via the Personal Tax Account. An individual can sign into their account, or set one up at **goo.gl/LkVoL2**

There is a special S tax code for Scottish taxpayers, which should be issued by HMRC: employers should not make decisions on residence status. If you have questions on this area, or any other aspect of employer payroll procedure, please contact us for advice.

Getting sporty?

Back at the start of the last football season, one leading tax body put out the call for amateur sports clubs to think of the cheering fans as their 12th man – and the tax rules as their 13th.

'Being a well-run amateur club includes understanding how the tax system might help the club's finances, while keeping HMRC onside,' said the Co-chair of the Association of Taxation Technicians.

Community Amateur Sports Clubs

There is one scheme in particular, involving registration for Community Amateur Sports Club (CASC) status, which can be of benefit to local clubs.

Up and running since 2002, the scheme is sometimes compared with having charitable status. It enables clubs to take advantage of a number of different tax reliefs, including Gift Aid on gifts from individuals. Other benefits include exemption from tax on bank interest, capital gains, trading profits where the club's yearly trading turnover is below £50,000, and rental income if below £30,000 per annum. CASCs are dissimilar from charities, though, when it comes to VAT. There are no specific VAT reliefs for CASCs, so CASCs are not eligible for charity VAT reliefs on the purchase of goods and services.

It is essential that participating clubs appreciate the considerable number of terms and conditions involved in the scheme. HMRC publish extensive guidance, which can be found here **goo.gl/NB5Ufk**

Applying for CASC status

There are conditions for joining the scheme, and clubs will need to provide a suitable governing document.

To be eligible, a club must:

- be open to the whole community
- be organised on an amateur basis
- have as its main purpose the provision of facilities for, and the promotion of participation in, one or more eligible sports
- not exceed a specific income limit
- meet a specific management condition
- meet a specific location condition.

CASC status is meant to be permanent. De-registration is not an option (unless the club is subsequently incorporated), and an application once made can't be withdrawn. However, if a club no longer meets the eligibility criteria, it may be de-registered by HMRC.

Gift Aid

Getting the admin right when an individual makes a donation under Gift Aid is very important, and if a CASC fails to keep the right records, it may have to pay HMRC back the tax reclaimed, plus interest. It may also become liable to a penalty. But the advantages of the scheme are considerable.

CASCs can also use the Gift Aid small donations scheme, which means they can claim a 'top up' payment on cash donations of £20 or less. With this scheme, it isn't necessary to record donor identity, or to collect a Gift Aid declaration, making it ideal for use with fund raisers like street collections.

CASC or charity?

CASCs cannot apply for charitable status, and when considering whether to apply for CASC or charitable status, it is prudent to consider the different tax reliefs attached to each. We would be happy to provide an overview of the options.

Self-employed and want a mortgage?

If you're one of the UK's nearly five million self-employed people, you may know how tricky it can be to get a mortgage. 'All borrowers are jumping through more hoops than ever, but the self-employed will have to leap far higher,' said a spokesperson at analyst, Moneyfacts.

Unlike employees with a steady salary stream, the self-employed can be faced with ups and downs in income - good years and bad years. There can also be problems providing evidence of income, especially if you have only recently started trading and haven't accounts going back for two or three years.

You will need to ask your lender or mortgage provider what they will accept as evidence of income, but the good news is that there are increasing numbers of mortgage providers and lenders accepting a SA302 self assessment tax calculation printed from your HMRC online account, or a tax calculation printed from the tax return software we use, as your Agents. Also needed is a tax year overview from your online tax account.

You can find the list of lenders on the gov.uk site at **goo.gl/W4ygRJ**

The timely preparation of accounts and submission of tax returns will help any application and we are always pleased to be of service here.

National Minimum Wage in the social care sector

Employers in the social care sector have had mixed signals from HMRC about payment of National Minimum Wage (NMW) for workers carrying out sleep-in shifts – although the headline news is that NMW is payable here.

HMRC have set up a new compliance scheme, the Social Care Compliance Scheme (SCCS), from 1 November 2017. Employers enter on an opt-in basis – 'at HMRC's discretion.' They can use SCCS to 'self review,' identifying and paying any arrears for sleep-in shifts. The scheme allows 12 months for self-review, and a further three months to pay arrears. The deadline to join is 31 December 2018, and the scheme ends on 31 March 2019, which is the final deadline for payment of all arrears.

The benefit of the scheme is that employers using it will not then be liable for penalties, (200% of the amount owed, up to a maximum of £20,000 per worker) or naming and shaming over NMW underpayment. Employers who don't opt in will be subject to normal enforcement procedures, and will not be able to access these concessions. They could then be liable to penalties, potential prosecution, and naming. They are however not liable for penalties for arrears accrued before 26 July 2017.

Please consult us if you have concerns in this area.

National Minimum Wage: new rates from 1 April 2018

In the biggest rise in National Minimum Wage (NMW) rates for those under 25 for a decade, new rates apply from 1 April 2018.

18-20 and 21-24 year-olds see increases of 4.7% and 5.4% respectively. There is also a 4.4% increase in the National Living Wage (NLW) for those aged 25 and over.

NMW and NLW vary depending on age and whether or not a worker is an apprentice.

	Rate from 1 April 2018
NLW for workers aged 25 and over	£7.83
the main rate for workers aged 21-24	£7.38
the 18-20 rate	£5.90
the 16-17 rate for workers above school leaving age but under 18	£4.20
the apprentice rate *	£3.70

*for apprentices under 19, or 19 or over and in the first year of their apprenticeship

There are no exemptions from paying NMW on the grounds of the size of the business.

Tax on acquiring property in Wales

'Tax is changing in Wales' advise HMRC: and indeed it is.

From April, the Welsh Government and the National Assembly for Wales take on responsibility for some taxes paid in Wales, and property acquisition is one major area of change. Stamp Duty Land Tax (SDLT) is replaced by Land Transaction Tax (LTT) in Wales from 1 April 2018.

Since 1 April 2016, higher rates of SDLT have been charged in Wales on purchases of additional residential property (including second homes), and LTT continues this.

Welsh first-time buyers benefit from the Budget stamp duty relief announced by the Chancellor in his Autumn Budget 2017 - until 31 March 2018. After that, under LTT, the starting threshold for residential rates will be £180,000. According to Welsh Finance Minister, Mark Drakeford, this will take not just the majority of first-time buyers out of tax, but also many others 'looking to buy a home.'

LTT is set at 0% on residential purchases up to £180,000: 3.5% from £180,000 to £250,000: 5% from £250,000 to £400,000: 7.5% from £400,000 to £750,000: 10% from £750,000 to £1.5m and 12% above this figure.

When a spouse dies

Individual Savings Accounts (ISAs)

Money experts have estimated that because the small print about ISAs isn't widely known, almost nine in ten savers could be missing out when a spouse or civil partner dies.

On the death of an ISA-holding spouse or civil partner, it's possible to claim an extra ISA allowance. This means that the survivor is eligible for a one-off additional ISA allowance, equivalent to the value of the deceased saver's ISA: an 'additional permitted subscription' (APS) allowance. This is on top of the survivor's own ISA entitlement, which is £20,000 for the tax years 2017/18 and 2018/19.

The survivor is entitled to the APS allowance even if they do not actually inherit the ISA, and can use the allowance with the deceased's ISA provider or a provider of their choice. There are time limits for using the APS.

HMRC estimates that the survivors of at least 150,000 ISA holders each year could be eligible to take advantage of the APS. To qualify, the survivor must have been living with their spouse or civil partner at the date of death - in other words, not separated under a court order, under a deed of separation, or in circumstances where the marriage or civil partnership has broken down. Application for APS should be made to the manager of the deceased's ISA.

Marriage Allowance

The Marriage Allowance allows an individual to transfer 10% of their personal allowance to a spouse or civil partner where the recipient is neither a higher rate nor additional rate taxpayer.

The main scenario in which a transfer is allowed and worthwhile is where one of the individuals has little income and therefore has not used their personal allowance and the other individual does not pay tax at the higher or additional rate. But a transfer was not previously allowed where one of the parties had died.

The Autumn Budget 2017 announced that from 29 November 2017, claims in respect of Marriage Allowance may be made in respect of a deceased spouse or civil partner, and that such claims may be backdated for up to four years.

Transfers could bring tax savings of up to £230 per year.

We appreciate that you might prefer to delegate dealing with your tax matters at this time, and should be pleased to be of service.

Inheritance Tax

Inheritance Tax (IHT) is charged at 40% and may be due from an estate when someone dies, unless the estate is left to a spouse or civil partner. However, there are a number of key planning points and tax reliefs to bear in mind. There is often scope to reduce significantly a taxpayer's IHT liability, provided that appropriate and timely action is taken.

The nil rate band takes the first £325,000 out of IHT, and from 6 April 2017, a new nil rate band, called the 'residence nil rate band' (RNRB), has been introduced, meaning that the family home can be passed more easily to direct descendants on death.

The RNRB is being phased in. For deaths in 2017/18 it is £100,000, rising to £125,000 in 2018/19, £150,000 in 2019/20 and £175,000 in 2020/21. Thereafter it will rise in line with the Consumer Price Index.

There are a number of conditions that must be met in order to obtain the RNRB, which may involve redrafting an existing will.

IHT online

HMRC have begun providing an online form to help executors in England and Wales who wish to notify them of the value of an estate. The form can be used instead of the paper IHT205 form. It is available at **goo.gl/rLavQF**

It is for use:

- by personal representatives of the deceased
- applying for a grant of representation, such as probate
- in England and Wales
- in circumstances where no IHT is likely to be payable.

How we can help

IHT is an area where attention to timing and detail can be critical. Do please talk to us if you would like advice on any matters raised here.

Work: a whole new world

Uber, TaskRabbit, Deliveroo - names fast becoming familiar that would have been complete unknowns only a few years ago. The world of work is changing.

In the gig economy, a 'flexible' labour market sees workers on short term contracts or treated as freelancers, paid a piece rate for each 'gig,' rather than a daily or hourly rate. It's a growth area; recent research suggested that around 11% of the working age population participate as providers in the sharing economy.

According to a recent survey, nearly nine in ten employers and employees would like more clarification about employer responsibilities in the gig economy, and more protection for workers. The government, in its Taylor Review of employment practices, voiced concern that new patterns of work didn't 'undermine the reach of policies like the National Living Wage, maternity and paternity rights, pensions auto-enrolment, sick pay and holiday pay.' It's likely that the flexible working arrangements of the 'gig' economy will become more regulated in the future, and should you have any concerns, we would be more than happy to advise on best practice in any of these areas.