

CLIENT NEWSLETTER: August 2021

PAYROLL

An employee who works from home may be paid £6 a week or £26 a month tax free. During the coronavirus pandemic, this may be claimed for the whole tax year even if the employee goes into the office for part of the year or for some days. The allowance for 2020/21 is not automatically rolled over and must be claimed again for 2021/22.

An employer may claim an exemption for staff who are “pinged” and required to self-isolate. Food workers have been exempted. Other categories of workers may ask for exemption.

HMRC has produced revised guidance on which workers in the entertainment industry may be regarded as self-employed rather than employed.

Care should be taken when employing staff to work with children or vulnerable adults. A survey by *The Times* newspaper revealed how some people on the sex offenders register escape disclosure simply by changing their name.

BUSINESS TAX

From 1 April 2022, a business must notify HMRC if it takes a view of a tax treatment that it believes differs from HMRC’s view, if the amount involved is at least £5 million. Disclosure is needed if the view is different from HMRC’s published view, where a provision is made in the accounts for possible extra tax, or where there is reason to believe that a court or tribunal would take a different view.

From April 2023, companies with taxable profits above £250,000 pay tax at 25% while companies with profits up to £50,000 continue to pay 19%. The marginal rate between these figures is 26.5%. That means that every extra £1 earned between these thresholds attracts an additional 26.5p tax. Provided the ratio between the thresholds is 1 to 5, the marginal rate is the higher rate plus a quarter of the difference.

If a company wishes to start a new venture from April 2023, it is possible to save corporation tax by forming a new company. When a business has an associated company, the thresholds are halved. This means that the band that attracts 26.5% is halved before the 25% rate applies. It should be noted that the tax saving will usually be small, and it requires the venture’s profits to be known in advance. This only works in some circumstances. In other circumstances, forming a separate company could increase the tax payable.

If a company returns business rate relief provided during the coronavirus outbreak, the company will not be liable to tax on the amount under provisions to be included in Finance Act 2022.

A storage facility does not generally qualify as plant and machinery. A recent case found that specialist storage for potatoes did qualify as it had sophisticated temperature and ventilation controls.

Finance Act 2022 will include a provision to ensure that local authority COVID grants are not taxed as income.

PERSONAL TAX

The government has announced changes in reporting requirements for the self-employed and small businesses. This was to be introduced in April 2023 but has now been deferred to April 2024. This means that business profits will be taxed as they are earned. In effect it will end basis periods and overlap relief. There will be further details later, including transitional provisions to the new system.

When a residential property is sold in the UK, this must now be reported to HMRC within 30 days. The sale must also be reported on the following annual tax return.

The Budget announced a temporary provision where losses that arose between 1 April 2020 and 31 March 2021 may be carried back for three years instead of the usual one. The Finance Act makes clear this does not apply for furnished holiday lettings.

Payments of self-employed income support scheme are taxable as income. Finance Act 2020 made them taxable in 2020. As the scheme has extended into a second tax year, these payments are now taxable in the tax year when received.

Two new social security benefits introduced in Scotland are free of tax. These are child winter heating assistance and short-term assistance.

Where funds are paid from a trust to a beneficiary, the beneficiary usually gets the benefit of income tax paid by the trust, provided the trust distributes the funds within six years. In a recent case it was argued that extra-statutory concession B18 disapplies the six-year limit. The court found that the concession upholds the six-year limit.

It has been confirmed that compensation payments for investors in London Capital and Finance are not subject to income tax or capital gains tax.

Problems have been identified with child trust funds for disabled children. The fund may be accessed only by the child himself or herself when they reach the age of 18. If the child cannot do this, an application has to be made to the Court of Protection. This costs about £750 and requires up to 59 forms. The companies have created a workaround that allows up

to £5,000 to be withdrawn more easily. More than 500 families have released funds under this scheme as against just 11 through the Court of Protection.

A recent tax case has held that HMRC may not issue a discovery assessment for information correctly provided by the employer through the PAYE scheme.

VALUE ADDED TAX

The government is introducing new measures to deal with electronic sales suppression. This is where a till or similar device deliberately understates sales as a means of understating VAT due. There will be a new specific offence of possessing such suppression, and new powers to access source code to identify it.

When a business has a VAT liability above £2.3 million for a qualifying period, it must pay VAT in instalments. These payments are not collected by direct debit. Also the seven-day extension does not apply, so VAT must be paid by the end of the calendar month. A company recently lost an appeal against a penalty because it did not make the proper changes to its procedures.

A Chinese restaurant won an appeal against a VAT assessment where HMRC believed that sales had been suppressed. HMRC failed to consider other factors for an increase in revenue, such as a price increase, a loss of competitors and a marketing delivery of leaflets to local homes. Also, HMRC did not say how they believed sales had been suppressed.

NATIONAL INSURANCE

HMRC has provided detailed guidance on the liability to national insurance when someone works overseas. Although the UK is no longer in the EU, the rule still applies that a worker pays national insurance (or equivalent) in only one country out of UK, EU, Norway and Switzerland. For some work, it is possible to get a certificate allowing the worker to pay UK contributions.

INHERITANCE TAX

HMRC has updated its guidance on who must pay inheritance tax.

STAMP TAXES

On 19 July 2021, the last stamp presses were decommissioned. The last six were all more than 100 years old. Such presses have been used since stamp duty was introduced in 1694. Stamp duty is now mainly restricted to transfers of shares and some other securities. Stamp

duty is now dealt with under the CREST scheme or otherwise “stamped” online or by issuing a statement.

Consideration is being given to abolishing the stock transfer form and moving to an online self-assessment basis for stamp duty and stamp duty reserve tax.

A detached annex was held to be part of the main dwelling and not a separate dwelling for the purposes of stamp duty land tax. There were two deciding factors. One was that there was no kitchen. Although there was space for one, necessary infrastructure such as plumbing and electricity, was not there. The other factor was that the property could only be accessed by crossing the private garden of the main dwelling.

Multiple dwellings relief from stamp duty land tax could not be claimed when there was planning permission for the dwellings but no construction work had started. The relief is claimed when the purchaser acquires a property or property interest. Planning permission is not such an interest.

A case was recently heard on the stamp duty land tax implications when land plots were sold to fund work on a listed building in poor repair. Various matters were considered. The plots were not regarded as part of the garden or grounds as they had become “denatured”. No relief was to be given for “conservation deficit” where expenditure on repairing a listed benefit was more than its increase in value.

OTHER TAXES

The first eight Freeports in England have been selected from 18 bids It is planned to have two similar ports on Scotland, and possibly one in Wales. A freeport may have tax areas within it. There are many tax benefits for freeports’ tax areas. These include suspension of customs duty, waiver of some stamp duty land tax, structures and building allowance at 10% rather than 3%, employer’s national insurance waived for 36 months, and 100% business rates relief.

The scope of what is subject to plastic packaging tax has been amended. This tax is introduced from April 2022. It imposes a charge of £200 per tonne unless the packaging uses at least 30% recycled plastic. It removes three categories from the scope. The first is storage products, such as glasses cases and tool boxes. The second is packaging integral to the product, such as computer ink cartridges. The third excludes display equipment. Products sold separately but intended to be used only once are added to the scope. These include bin bags and party cups.

Tougher measures are being introduced to combat tobacco smuggling. This includes higher penalties for repeat smugglers, and more powers for trading standards officers.

A tribunal has clarified what customs classifications are appropriate for some electronic products. These include wireless charging pads, a USB charger and a cable adapter.

TAX ADMINISTRATION

The Supreme Court decision in the *Tooth* case on white space on a tax return has also ended the concept of staleness in tax. When the case was heard at the Court of Appeal, it ruled that HMRC loses the right to pursue tax if it does not make timely use of information. The Supreme Court said the concept of staleness is alien to tax law.

There will be further provisions to clamp down on tax avoidance schemes in Finance Act 2022. There will be new powers to stop promoters of such schemes hiding their assets or being based overseas.

In a recent case, HMRC was ordered to pay costs for its unreasonable conduct in a tax appeal. It included documents in a list for hearing but then refused to provide copies.

A follower notice may only be issued by HMRC when there is no reasonable disagreement that the earlier ruling has effect. A follower notice may be issued when a taxpayer attempts to use an avoidance scheme that a court or tribunal has ruled is ineffective. The Supreme Court said that it was insufficient that the ruling was “likely” to impact on a scheme.

Scotland says it wishes to establish two green ports. These would be like freeports in England but with additional conditions to adopt fair work practices and contribute to Scotland moving to net zero carbon economy.

HMRC published its performance data for 2020/21. It explained that it had managed to set up the coronavirus services within six weeks. It achieved an 85.2% satisfaction rating from users of online services. On the negative side, it took an average 15 minutes 23 seconds to answer the telephone, for which poor service HMRC apologises.

PENSIONS

The normal minimum pension age increases from 55 to 57 from April 2028 as previously announced. This is the age at which a person may take their pension from an employer or private scheme. The government has announced that the legislation will be in Finance Act 2022. Members of uniformed public pension schemes who may retire at 55 will have that right protected.

In July 2021, 100,000 postal workers became the first to use the new collective defined contribution scheme in which the employer and employees contribute to the pension fund.

The Pensions Regulator said that women born in the 1950s were given insufficient warning of the increase in state pension age. This is unlikely to lead to change as the courts have already found in favour of the government.

WELFARE

More than £3 billion is sitting unclaimed in child trust funds, according to a charity. Almost all children born between 2002 and 2010 have such a fund. These may be accessed only by the child when they reach 18. They may be traced through HMRC or the free search CTF Register.

The £20 temporary uplift to universal credit will end in autumn 2021, the government has confirmed. The decision has been widely opposed, including by six former Conservative secretaries of state for work and pensions.

The scope of being terminally ill has been amended for social security benefits. The definition is now that the person is expected to die within 12 months rather than 6 months. Someone who is terminally ill can have their benefits fast-tracked. The change applies from 2022 for universal credit, and employment and support allowance. It will later be extended to other benefits.

Bereavement support payment may now be paid to an unmarried cohabitee who had children with the deceased. Such claims will be backdated to August 2018, with the backdated payment paid as a single lump sum. Previously the payments could only be made to a spouse or civil partner.

The government proposes to align the age for free prescriptions to the state pension age. At present, anyone aged 60 or over gets free prescriptions. The proposed change would increase this immediately to 66, and then to 67 and 68 later this century.

Scotland has provided funding to help pay for school uniforms and for children to learn a musical instrument.

ACCOUNTING

The Financial Reporting Council has conducted its second triennial review of the main accounting standard FRS 102. Its main issue is how best to incorporate two international standards on leases and profit recognition. It plans to make minor changes in three other areas: whether disclosures for small businesses are adequate, whether provision on government grants need amending as a consequence of coronavirus support, and updating the section on moving from UK standards to international standards. The Council is also reflecting on the need to deal with cryptocurrencies (like bitcoin) and on climate change.

El Salvador has become the first country to make bitcoin legal tender.

BUSINESS FINANCE

From 4 January 2022, the government has a new power to intervene in mergers and acquisitions when it believes that they would compromise national security.

Many banks have reduced the amounts that may be paid online as a means of cracking down on fraud and money laundering. In 2020, more than £1 million was misappropriated every day. NatWest reduced its limit from £20,000 to £5,000. Other banks have done the same. This can be critical when paying tax near the due date. If the payment is delayed, the due date may be missed, and a penalty could be imposed. Businesses should know what the online limit is, discuss arrangements with the bank if the limit is a problem, pay tax before the due date to allow time to resolve any issues, and have accounts with at least two different banks.

29% of audits did not come up to standard, according to the Financial Reporting Standard. Particular problem areas are recognition of profit, impairment of assets, and oversight of group audits.

The International Accounting Standards Board has said that it will plans to issue a new standard that reduces disclosure requirements for subsidiaries.

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PERSONAL FINANCE

Many individuals and small businesses are finding they are locked out of PayPal and bank accounts and not told the reason why. They have this right if they suspect the account is being used for fraud. The banks are not allowed to tip off customers. They have been criticised for being over-zealous in blocking accounts.

The Treasury proposes to allow ordinary shops to provide cash against a debit card without the card holder making a purchase. Under EU law a retailer could only provide cash from a card under cashback which requires a purchase. This restriction no longer applies after Brexit. There are also plans to ensure that no person has to travel more than one kilometre to access cash. Although use of cash has fallen sharply, coins and banknotes are still used in 17% of retail sales. About 8 million people still use cash regularly.

The pandemic has made the average household £7,800 richer. The saving arises from increased house values, reduction in stamp duty land tax, and lower spending on fares on meals out.

The maximum and minimum home loss payments increase from £65,000 and £6,500 respectively to £71,000 and £7,100 from 1 October 2021. This sum is paid in addition to the price of a property that is compulsorily purchased.

Foreign currency cards have been incurring inactivity fees because of cancelled holidays. Of the 19 cards on the market, 14 charge fees of between £1 and £3 a month. About one fifth of overseas holiday makers use these cards.

Police are cracking down on fake motor insurance. Victims believe they have insurance when they do not. This makes them vulnerable if they need to claim. It is also a criminal offence not to have motor insurance.

Pocket is being investigated by the Financial Conduct Authority for locking its customers out of their accounts for no reason. Pocket specialises in providing services for the financially excluded.

LAW

The much-criticised Action Fraud line is to be replaced by a new fraud and cybercrime reporting system in 2022.

There is no interim relief in a claim for sex discrimination, the Court of Appeal has ruled.

The government plans reform to consumer protection laws. Traders must protect customers' money. Car suppliers and home improvement companies will be required to participate in mediation to resolve disputes. There will be a tightening up of subscriptions. It will become an offence to pay someone to write a fake review. The Competition and Markets Authority will have power to issue penalties on its own authority.

The prime minister announced that burglars convicted for at least one year will be fitted with GPS tags so their movements can be linked to burglaries.

Blackpool Council has been forced to compensate the evangelical Christian body Billy Graham Organisation for removing advertisements for meetings to be addressed by Billy Graham's son Franklin Graham. The advertisements were removed after protests from gay rights groups who object to Franklin's views on homosexuality. The council said it was wrong to side with one group of society against another, and agreed that there was nothing offensive in the advertisements.

The tort of causing loss by unlawful means requires the defendant to have directly affected a third party's freedom to deal with the claimant, the Supreme Court has ruled.

County court judge Peter Herbert is believed to have become the first judge to sue the Ministry of Justice. He claimed discrimination, victimisation and harassment after he criticised the High Court judge who disqualified the mayor of Tower Hamlets.

OTHER NEWS

There was a global outage of Internet services on 22 July 2021. This knocked out many websites. It is the second such outage in two months.

On 19 July 2021, there was a hacking attack on 30,000 networks, believed to be for harvesting personal data. The UK, EU, USA and NATO all blamed China.

Most coronavirus restrictions in England ended on 19 July 2021.

The Scouts Association has introduced a new money badge to encourage scouts to understand finance. About a quarter of all UK adults are believed to struggle with basic financial numeracy.

Computer ink is much more expensive than Chanel perfume, according to *Which?* magazine. Computer ink typically costs £2,140 for one litre, against £1,771 for Chanel perfume.