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BUSINESS MATTERS

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New Tax-Free Childcare (almost) up and running

The new Tax-Free Childcare scheme is now half way through its roll-out period. The first round of applications began in April 2017 and by the end of the year all eligible parents can apply. Potentially annual childcare costs of up to £10,000 per child can be met by £8,000 of payments by the parents and £2,000 by the government. For a disabled child, the maximum top-up payments are £4,000.

This is the first childcare scheme providing a tax break for the self-employed. However not everyone qualifies, and the qualifying conditions also need to be satisfied by the spouse or partner of the claimant.

The government has launched a website – Childcare Choices – which guides parents through the various ways help is, or will be, available. Please see: **www.childcarechoices.gov.uk**. It clearly and interactively guides a potential claimant through the types of childcare support available.

Of course, the scheme is not just for the self-employed – employees potentially qualify. If you are an employer, it would be a good idea to point your employees in the direction of the Childcare Choices site.

Making Tax Digital for Business: plans delayed

The government's much-publicised plans for Making Tax Digital for Business (MTDfB) have taken a radical new direction, giving businesses longer to get ready for change.

MTDfB involves not just mandatory quarterly updates to HMRC, but also makes digital accounting records compulsory. For some unincorporated businesses, including landlords, April 2018 was the proposed start date. There has been much concern about the entire plan, particularly for SMEs, in terms of additional cost and red tape – and also the very rushed timescale.

There is now a lengthier period to prepare and initially, MTDfB will be limited just to the VAT regime.

New timeline

The timeline now proposed makes MTDfB mandatory from April 2019 for businesses with turnover over the VAT threshold (£85,000 at present). They will have to keep digital records, but only for VAT purposes. Such businesses will be able to provide quarterly updates for other taxes if they wish. Similarly, businesses with a turnover below the VAT threshold can choose to make quarterly updates voluntarily.

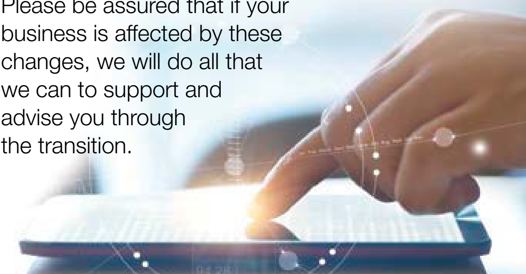
2020 is the next date in the MTDfB calendar: HMRC say this is the earliest that businesses and landlords will be required to keep digital accounting records and make quarterly updates for taxes other than VAT.

New problems?

The government announcement has to be good news for business. It allows more robust trials of HMRC systems, particularly as regards our access as agents to client information, and it gives time for the software houses to release the necessary software.

But there may be problem areas. There are many special VAT schemes. Partial exemption is one particularly tricky area. So although HMRC are getting online quarterly information for VAT, many businesses do not submit VAT returns direct from software but use spreadsheets. HMRC will start testing MTDfB for VAT later in the year, though only on a very limited basis, with a wider live pilot in Spring 2018. It's still possible that this timeline will involve VAT-registered businesses in quite a sprint for the finish.

Please be assured that if your business is affected by these changes, we will do all that we can to support and advise you through the transition.



Using the Lifetime ISA to buy a first home

Lifetime ISAs could be opened by individuals from April 2017 but it is only now that a reasonable number of providers exist. Are they the right thing for you, or if not you, your children?

Adults under the age of 40 are able to open an account and contribute up to £4,000 per year and receive a 25% bonus from the government after the end of each tax year. If £4,000 is invested, the investment limit for the other types of ISAs falls to £16,000. Funds, including the government bonus, can be used to buy a first home up to £450,000 at any time from 12 months after the first subscription, or can be withdrawn from age 60 completely tax-free. In this article we are considering the first use – as an investment vehicle to fund the purchase of a first home. Is the use of a Lifetime ISA better than the Help to Buy ISA?

Help to Buy ISAs started in 2015. The scheme provides a government bonus to each person who has saved into a Help to Buy ISA at the point the purchase of their first home is completed. The maximum bonus is £3,000 on £12,000 of savings but the maximum that can be invested in the first year is £3,400 (£1,200 in month one followed by 11 monthly payments of £200). You need to have at least £1,600 saved to get the bonus. The bonus is available on homes worth up to £250,000, or £450,000 in London. As the Help to Buy ISA is a type of cash ISA the rule that an individual can only open one cash ISA each tax year comes into play. Some providers will bundle a Help to Buy ISA and a cash ISA together in the same wrapper to get around this issue.

You can have both a Help to Buy and Lifetime ISA at the same time but you will only be able to use the bonus from one of the accounts to purchase your first home.

In a straight comparison of the bonuses the Lifetime ISA provides more, particularly if the timescale for the purchase of a home is some way off. The bonuses each year are higher and are received after the end of each tax year and so can boost investment returns.

Off-plan purchases and Principal Private Residence exemption

An interesting tax case was heard before a First-tier Tribunal this year and has resulted in a victory for the taxpayer. The case is good news for individuals who have bought or who are making off-plan property purchases. Buying off-plan property means purchasing property – typically an apartment – in advance of its completion and has become much more common in the UK in recent years.

If this property is a residence of an individual for all their 'period of ownership' the UK tax regime provides an important relief from a capital gains tax charge. This is known as Principal Private Residence relief (PPR). Partial relief is available if the property is a residence for part of the period. The intriguing question that has been answered by this tax case is - what is the 'period of ownership'? In HMRC's view, their interpretation of tax law resulted in a capital gains tax (CGT) charge of over £61,000. Mr Higgins thought no charge was more appropriate.

Why the difference of opinion?

The case turned on the interpretation of two specific but important provisions in the legislation:

- S28 TCGA 1992 – which stipulates that a person is deemed to have acquired or disposed of an asset when a contract is made and not, if different, the time at which the asset is conveyed.
- S222 TCGA 1992 – which provides that PPR is available if the property has been the main residence of the individual throughout the 'period of ownership'. Partial relief is given if the property has been the main residence for part of the period.

Often there is little difference between the date of the contract (ie there is a binding agreement to buy) and completion of the contract (ie when a person can move into the property). In Mr Higgin's case however, he entered into the contract for the purchase of an apartment in October 2006. Construction did not start on the apartment until 2009, and it was finished in December 2009. The credit crunch in 2007 had held up the developer somewhat. Mr Higgins paid the balance due on completion and moved in on 5 January 2010.

Two years later, Mr Higgins sold the property at a healthy profit.

S28 TCGA is a very useful provision in CGT planning particularly in allowing a taxpayer to decide whether a disposal is made in one tax year rather than another. But HMRC argued the section worked against the taxpayer in this case. They argued that s28 meant that Mr Higgins owned the property from 2006 to 2011. This was his 'period of ownership' for the capital gain and therefore only 2/6ths of the gain was eligible for PPR. Mr Higgins argued that for the purposes of PPR his period of ownership began when he had the right to occupy the property and so the property was his main residence throughout the 'period of ownership'.

The Tribunal agreed with Mr Higgins. The 'period of ownership' is not defined in legislation and should be given its ordinary meaning. A period of ownership of a dwelling house will ordinarily be said to begin on the date the purchase of the dwelling house has been physically and legally completed and the purchaser has the right to occupy.

PAYE and Making Tax Digital

HMRC's Making Tax Digital project is about to make inroads into the PAYE system. Employers will see an increase in the number of tax codes being issued during the tax year. Hopefully that will turn out to be a good thing for employees but only time will tell.

PAYE started to operate from 6 April 1944 as a means of spreading an employee's tax liabilities over the tax year and allowing the amount of tax deducted to vary with variations in weekly or monthly employment income. The tax code was the means by which tax allowances were spread over the course of the year. The system worked well for many years in an era when many employees only had one job and did not frequently change jobs.

The system has however been creaking for some time. Employees may have more than one job, or receive a pension whilst still working. In addition the reductions in the tax free allowance code to estimate taxation of benefits and non-employment income, give rise to many employees paying the wrong amount of tax by the end of each tax year. PAYE now applies to around 41 million individuals – around eight million end the year having either over or underpaid tax. Two thirds of these employees overpay tax and many of these are the lowest paid, earning under £15,000 a year.

What is changing?

The use of the Real Time Information system by employers means HMRC receive employee data much earlier than formerly. According to HMRC:

- *Millions (of taxpayers) will pay less tax on a monthly basis by the end of the tax year because we will catch any overpayments sooner and prevent them from building up.*
- *A smaller number, who previously would have had an unexpected bill at the end of the year, will pay the right tax from the moment their circumstances change, so they will be able to manage their tax payments better.*

Does an employee have to do anything?

No, not in the short term. When HMRC is aware of a change in an individual's circumstances, it will issue a new tax code and will write to the employee regarding the change.

If employees don't understand the change, the letter from HMRC will encourage them to use their Personal Tax Account. This is where the Making Tax Digital project comes in. Personal Tax Accounts have been linked to HMRC internal systems so that they will be pre-populated with income and tax details that HMRC already hold. This includes employment income, PAYE and NIC and any state retirement pension.

From April 2018, it is intended that interest paid by banks and building societies will be included in digital tax accounts. In order for this to happen, banks and building societies will be required to provide information to HMRC earlier, and more frequently, than currently. Taxpayers will also be able to report any additional sources of income through their digital tax accounts in 2018.

Does an employer have to do anything?

Employers will see an increase in the number of tax codes being issued during the tax year but the way they are received does not change. The revised tax codes need to be applied before the next payroll is run. There is a brief employer information pack available at: **https://goo.gl/P74Gyt**.

The pack includes an employee section and, if you are an employer, you can direct employees to this guide. It explains to an employee the benefits of using their Personal Tax Account and how to access it.

Hackers' favourite sport – phishing

In early 2017, a UK company warned its employees about suspicious emails and how to deal with them. Two months later it sent a bogus email from the HR manager to a sample of employees requesting personal details. Despite the previous warnings, 54% of the employees clicked the link in the email and amazingly nearly all of those submitted data in the form provided via the link.

It is no surprise that the vast majority of hacking attacks begin with a phishing email. It may also be no surprise to know that HMRC is one of the most phished brands in the UK. What is more, there may be another surge as HMRC are encouraging individuals and businesses to sign up to their Personal Tax Account (PTA). The government's ambition is for everyone to have a PTA by 2020.

However, HMRC will never ask people to disclose personal or financial information by email. And that's the golden rule for any employee to remember for emails received from anyone.

Two links which you may find useful:

https://goo.gl/oJsCsr - this is a list of digital and other contacts from HMRC if you have any doubts about the authenticity of an email. It gives some helpful pointers to look out for if you are in any doubt as to whether an email or other contact that purports to be from HMRC is what it seems to be.

www.gov.uk/personal-tax-account - this is the page from which you sign up to a Personal Tax Account. The page lists what you can currently do in the Personal Tax Account, but the aim is for these to be secure areas where an individual or business can see all their tax details in one place and interact with HMRC digitally.

New data protection rules

There are new data protection rules in the pipeline, and they're likely to get a lot more publicity in the months to come. The new initials to look out for are GDPR.

GDPR - General Data Protection Regulation – is set to kick in from 25 May 2018. It increases the obligations on all businesses to safeguard the personal information of individuals which is stored by the business – be they customers, suppliers or employees. Broadly speaking, if you are already subject to the Data Protection Act, you're likely to have to comply with the GDPR.

GDPR will apply to data 'controllers' and 'processors.' Processing is about the more technical end of operations, like storing, retrieving and erasing data, whilst controlling data involves its manipulation in terms of interpretation, or decision making based on the data. The data processor processes personal data on behalf of a data controller. Obligations for processors are a new requirement under the GDPR.

New features

The GDPR applies to personal data – but the new definition is wider than under the Data Protection Act (DPA).

One key new feature is having to show how you comply with the rules. Evidencing compliance is known as the 'accountability' principle. Things like staff training and reviewing your HR policies are examples of compliance – and you'll need evidence to prove you've done it.

Under GDPR, higher standards are set for consent. Consent means offering people genuine choice and control over how you use their data.

Under 250 employees?

The legislation acknowledges that micro, small and medium enterprises have particular needs, and for record-keeping, the GDPR distinguishes between what is expected of organisations with more than 250 employees, and those below this size. There is a little more lee-way at the smaller end of the scale and additional requirements for organisations with 250+ employees.

250+ employee organisations have to keep internal records of processing activities, whilst smaller organisations don't. Smaller organisations however, do have to keep records of activities concerning higher risk processing. Higher risk processing is a category including processing of special categories of data or criminal convictions or offences, or personal data potentially impacting the rights and freedoms of an individual.

Showing compliance and consent

Overall, the aims of GDPR are to create a minimal data security risk environment, and to protect personal data to rigorous standards. For most organisations, this will entail time and energy getting up to speed with compliance procedures. Reviewing consent mechanisms already in place is likely to be a key priority. In practice, this means things like ensuring active opt-in, rather than offering pre-ticked opt-in boxes, which become invalid under the new rules.

Organisations will also have to think about existing DPA consents. The ICO's advice is that 'you will need to be confident that your consent requests already meet the GDPR standard and that consents are properly documented. You will also need to put in place compliant mechanisms for individuals to withdraw their consent easily.' If consents already in place don't meet the new standards, action will be needed.

Getting it wrong

As well as adverse reputational impact, the cost of getting it wrong could be high. Infringing the basic principles for processing personal data, including the conditions for consent, could mount to 20 million euros or 4% of total worldwide annual turnover (if higher).

This article highlights just some of the main features of the new rules. The Information Commissioner's Office (ICO) has published some very useful information and planning points to help organisations get ready ahead of the May 2018 deadline which are well worth reading **https://goo.gl/sBV45D** and **https://goo.gl/NwTzDY**

New ways to raise business finance - peer to peer lending

SMEs looking to raise finance have traditionally been tied to bank funding, but recently there have been significant changes.

Peer to peer (P2P) business lending is one new way of raising finance. It can be a direct alternative to a bank loan, and currently over 35,000 UK businesses have P2P loans, according to data published by the P2P Finance Association. Typically investors lend small parts of individual loans, with the online system making it easy for lenders to participate across multiple loans. Borrowers can access loans ranging from a few thousand pounds up to several million.

P2P lending platforms require online applications, each with its own qualifying criteria. Borrowers usually need a trading track record and would have to submit financial accounts. Whilst interest rates may be higher than bank finance, P2P can have the edge in terms of speedy decision-making.

There are safeguards and guidelines: the Financial Conduct Authority (FCA) regulates P2P. P2P loans can be held in a new Individual Savings Account – the 'Innovative Finance ISA' possibly making P2P even more attractive to lenders. Information on P2P lending and links to lenders is available at **http://p2pfa.info**

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