SUMMER NEWS 2019

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To err is human…

But forgiveness is not the HMRC way. Taxpayers are expected to get their tax returns right first time, and to diligently preserve all records relevant to their tax affairs for at least six years. However, HMRC has been shown to make systematic mistakes in tax computations, to provide incomplete information to taxpayers, and to have a lower standard of record retention than the courts would normally expect.

Examples of all these HMRC short comings are included in this newsletter. If you feel you have been treated unfairly by the tax system, you can usually appeal against the penalty or HMRC's decision. Appeals have to be submitted within 30 calendar days of the date HMRC made the decision or issued the penalty notice. However, the tax tribunals are sometimes sympathetic to taxpayers who submit a late appeal, so don't give up even if you have apparently run out of time.

The tax rules are constantly changing, and this normally means there is more tax to pay. There are big changes for Capital Gains Tax coming in for homeowners who sell from 6 April 2020, as we explain below. You may wish to sell before that date to take advantage of existing tax reliefs.

Company car drivers, on the other hand, will be delighted if they drive an electric or hybrid vehicle, as the taxable benefit for very low emissions vehicles is reducing significantly from 6 April 2020. In that case it may be better to wait until April 2020 to take up the offer of a new company car.

The next Budget is likely to be presented by a different Chancellor of the Exchequer, as the new Prime Minister will choose their own right-hand man, or woman, for that post. The new individual in charge of the nation's coffers is likely to have some radical ideas about tax rates and reliefs. Hold on tight, it's going to be a bumpy ride! ●

Digital records needed for MTD

VAT registered businesses who need to file VAT returns under the Making Tax Digital (MTD) rules, also need to keep all of their VAT records in a digital format. This can be in a spreadsheet or in accounting software.

You don't have to take a picture of every purchase receipt, but you do need to record these three data points:

- Date of the purchase
- Net value of the purchase
- Amount of VAT to be reclaimed

Where you buy a lot of items from a supplier, you can record the totals from the supplier as a statement instead of all the individual purchase invoices. This helps you match your accounting records to your bank statement where you make one payment per period to each supplier. You can only use the supplier statement totals where all the invoices on the statement fall into the same VAT period, and the amount of VAT charged at each rate is recorded.

Petty cash transactions can also be a pain, as there tend to be a lot of small amounts. You can record all the petty cash expenditure as a single digital record, if the total amount is no more than £500, and the individual purchases were each no more than £50.

Where the purchase invoice is received digitally as a PDF or word file, you don't have to suck that information into your accounting system digitally, you can retype the key details. However, once the data is within your accounting system it needs to be digitally transferred to the VAT return via digital links, without further retyping, or by cut-and-paste, or copy and paste. There is a relaxation of this rule for the first 12 months of MTD.

We can help you set up your accounting system so it complies with the MTD regulations. ●

Paying tax by 31 July

People who complete a Self-assessment tax return and owe more than £1,000 of tax, generally have to make two payments on account of tax due for the 2018/19 year, by 31 January 2019 and 31 July 2019.

Those on account bills are based on the total amount of tax calculated as payable for 2017/18 in the tax return submitted by 31 January 2019. The HMRC computer should send taxpayers demands for those on account payments in good time to allow you to find the money before January and July 2019, but this year it has failed to do this in every case.

If you didn't see a request on your tax statement to pay an on account amount in January 2019, you may have paid just the balancing payment due for 2017/18 in January. In this case you will either have to pay all of your 2018/19 tax due by 31 January 2020, or make a voluntary payment on account.

There is a risk that a voluntary payment will be automatically repaid by the HMRC computer, as it won't be expecting it. So it may be easier to deposit all the tax due into a savings account and pay over the entire sum in January 2020.

If your tax statement didn't include demands for payments on account for 2018/19, you won't be charged interest for late payment, as long as the full amount of tax due for 2018/19 is paid by 31 January 2020.

If you did pay the correct amount of tax as we advised by 31 January 2019, including payment on account for 2018/19, and your tax statement doesn't show a demand for 2018/19 tax due by 31 July, we can fix that. We can ask HMRC to added the payment made on account to your record, which will ensure the tax is not repaid.

Please let us know if you receive an unexpected repayment of tax, as it may not be correct ●

Trivial benefits – big tax saving

Occasional treats for employees can be provided as tax-free trivial benefits if four conditions are met:

1. the treat is not cash or a voucher that can be exchanged for cash
2. the cost of providing each treat doesn't exceed £50 per employee
3. the employee is not entitled to receive it as part of any contractual obligation
4. it's not provided in recognition of particular services performed by the employee as part of their employment duties.

Say the employer promises to provide bacon rolls to those employees who are required to do a stock-take before the business opens every Friday. That would amount to a reward for those early starters, so condition 3 is broken.

If the employer provides the bacon rolls as an unexpected treat to employees, that can be classified as a trivial benefit as the employees don't have to do anything in order to receive the bacon roll. Incidentally, where all staff at a particular workplace are provided with free or subsidised meals, and the conditions for a staff canteen are met, those meals would be a tax free benefit.

The employer can provide an unlimited number of treats to the employees, but regular gifts could come to be expected as part of the reward for turning up to work, and so condition 4 would be broken.

Each gift also needs to be distinct and not part of another promise or item. Say the employees are each given a gift card, which is topped up at the employer's discretion. That amounts to a single item (the gift card) per employee, so as soon as the value added to the card exceeds £50 the conditions for a trivial benefit would be broken. If the employer provided new gift cards to employees as treats, each card would be seen as a separate gift and thus could contain up to £50 of value.

Where trivial benefits are provided to a director of a close company or to a member of their family or household, there is an annual cap on the value of items which can be treated as trivial benefits: £300 per year. ●

Life assurance and tax

When you cash in a life assurance policy or bond, the taxable amount you receive is treated as the highest slice of your income. The taxable portion won't be the full proceeds, but it can increase your marginal tax rate so you pay more tax in one year than you would have if you'd made regular withdrawals over the life of the bond.

Top-slicing relief attempts to put you in the position you would have been in, had the lump sum been paid in equal amounts in each year of the bond's life. It doesn't exactly achieve that, but it's a good approximation.

The problem is, HMRC's computer hasn't calculated the top-slicing relief correctly in every case. For example, where the taxable part of the bond pushed your income for the year over £100,000, part or all of your personal allowance is withdrawn. However, in the top slicing relief calculation your Personal Allowance should have been reinstated. It is this step the HMRC computer missed.

A recent tax tribunal case has determined that HMRC was wrong. If you received taxable income from a life assurance bond in the last eight years, or you were an executor of an estate that received income from an offshore bond, ask us to double check the tax due. ●

Marriage allowance

Married couples tend to pool their resources and share fiscal burdens, but the UK tax system treats every individual as an independent person. This can lead to families paying more tax overall.

Where one person earns the majority of the family income, he or she may pay more tax than if both individuals each earned approximately half of the same total, and hence use their full personal allowance and basic rate bands.

Such inequality can be eased by the lower earner transferring 10% of their unused Personal Allowance to their higher earning spouse. This transferred amount is called the Marriage Allowance, as it can only be claimed by married couples or those in a civil partnership.

The marriage allowance is worth £250 for 2019/20. The person who is transferring their Personal Allowance must claim, and the recipient must be taxed at no more than 20% (21% for Scottish taxpayers). Claims can be back-dated to 2015/16, when the Marriage Allowance was introduced.

If you were widowed in the last four years, you can still claim the marriage allowance for years in which your partner was living from 6 April 2015 onwards.

You can claim the Marriage Allowance in your tax return, online, by calling 0300 200 3300, or by writing to HMRC. We can help you with this. ●

Cut the tax on company cars

There are three ways to reduce the tax payable by an employee or director who is provided with a company car: choose electric or hybrid, a 'clean' diesel, or take a van.

Electric and hybrid cars with CO_2 emissions of up to 50g/km currently attract a taxable benefit of 16% of their list price, which doesn't encourage companies to buy the more expensive electric models. However, from 6 April 2020 the taxable benefit of having a purely electric car will be only 2% of its list price.

Hybrids with emissions of less than 51g/km which can drive 130 miles or more on electric power, without recharging, will also be taxed at 2% of list price next year. The taxable benefits of such hybrid models will increase as the electric-only range decreases.

New 'clean' diesel cars are now being sold that meet the Euro standard 6d. This gives them two advantages:

- the taxable benefit is calculated as if it was a petrol vehicle; and
- the £12.50 daily charge in London's ultra-low emissions zone does not apply.

Diesel cars which don't meet the Euro 6d standard have a 4% supplement on the percentage of list price, up to a maximum of 37%. This will also apply to diesel hybrids from April 2020.

An employee is taxed on a flat amount of £3,430 if they use a company van for private journeys, or £2,058 for an electric van. This applies irrespective of the list price of the van. So providing a commercial vehicle instead of a car can save the driver a lot of tax.

However, you need to check whether a multi-purpose vehicle was primarily designed to carry goods rather than people. A van with two rows of seats may fail this test. The definition of a van for VAT purposes is different again, and will depend on how much weight it is designed to carry.

We can help you work through the many tax implications of buying a company car or van. ●

Check your P60

Your employer should have sent you a P60 certificate for 2018/19 by now. This shows your income from that employer in the tax year to 5 April 2019 and the total amount of tax deducted. If you also received taxable benefits in that year, such as a company car, you should receive a form P11D detailing the value of those benefits.

You will need both of those documents to complete your tax return for 2018/19, which must be submitted online by 31 January 2020, or by 31 October 2019 if you send in a paper tax return.

Don't just blindly copy the figures from the P60 and P11D on to your tax return, think about what they represent. If your employer makes a mistake when completing the P60, and you reflect that mistake on your tax return, you are responsible for that error. An incorrect tax return can attract penalties of up to 30% of the underpaid tax, or 70% of the tax for a deliberate error.

A tax tribunal recently upheld penalties where a taxpayer didn't check the P60 figure and as a result understated his salary by 45%. He also failed to declare his taxable benefits.

We can complete your tax return for you, to avoid such drama. ●

PAYE: New starters

Do you use the new HMRC starter checklist when taking on new employees? This form was updated in April 2019, and you should ask all new employees to complete it even if the individual presents you with a completed form P45.

Page 1 of the starter checklist asks the new employee to tick a box next to statements summarised as:

A. this is my first job since claiming state benefits
B. this is my only job
C. this is second concurrent job or pension.

If all choices are left blank, you should choose option C for your new employee. In that case your payroll software will give the employee a PAYE code of OT/1. This generally leads to the employee being over-taxed as no tax-free Personal Allowance is given in the PAYE code.

Please help your new employees to complete the starter checklist correctly, as some people may not understand the language used. HMRC can take months to issue a correct PAYE code, and during that time your employee may be short of cash and unhappy.

Do you download any new PAYE codes using your payroll software before each payroll run? Most PAYE codes are delivered electronically, and you need to check whether new codes have been issued to your employees.

HMRC is actively checking up on employers who are not using the correct PAYE code for each of their employees. If you notice a problem with a PAYE code, such as an incorrect name or NI number, report it to HMRC as soon as possible. ●

Changes to IR35

If you provide your personal services through your own company you may be familiar with the IR35 rules, which have been around for nearly 20 years.

Those rules are designed to discourage avoidance of PAYE and NIC by organisations who engage workers through personal service companies or other intermediaries, rather than taking them on to the payroll. Who makes the decision about whether the worker is inside or outside the IR35 rules is changing.

For private sector contracts, the worker currently makes that decision. Where the worker is caught by the IR35 rules, their personal service company must pay PAYE and NIC on a deemed salary payment once a year.

For contracts in the public sector, the engager must decide whether the worker is caught by the IR35 rules, and deduct tax from the payments to the personal service company, if required.

From 6 April 2020 the operation of the IR35 rules, will be standardised for large organisations in the public and private sectors. 'Large' in this context means having net assets worth over £5.1m, or annual turnover of over £10.2m, and over 50 employees.

If you provide your personal services through your own company or partnership, you should review the working relationships with your customers, particularly for contracts which are expected to extend beyond 6 April 2020.

If your customer is not a large organisation, the IR35 rules will continue as now; you will decide whether your contract falls within them or not. If your customer is 'large' it will be your customer's responsibility to decide whether your contract is caught by IR35. In that case your customer will be required to deduct Income Tax and NIC under PAYE from your invoice before paying the net amount to your company.

You will not become an employee of your customer, but you will be taxed as if you are one. ●

Start right for MTD

Under the Making Tax Digital (MTD) rules, businesses must use software to submit their VAT returns unless their annual turnover is less than £85,000.

If you have acquired new accounting software to comply with MTD for VAT, it's worth checking whether it's been set up to reflect the circumstances of your business. For example:

- Have the opening balances for debtors and creditors been correctly entered?
- Does the software recognise the use of the cash accounting scheme?
- Is the software using the correct percentage to calculate the VAT due under the flat rate scheme?
- Is the software correctly identifying which purchases are zero-rated or standard-rated from bank feeds?

Before you submit your first VAT return using your new software, review the draft return for obvious errors and inconsistencies. We can help you with that.

Penalties arising from inaccurate VAT returns apply at up to 100% of the VAT underpaid as a result of a careless or deliberate error. A problem with setting up new accounting software may be accepted as a reasonable excuse for submitting a VAT return containing an error, but you need to correct any mistakes as soon as they are discovered. ●

What is property development?

A popular daytime TV programme follows people who renovate residential properties for a profit, but it rarely spells out the tax implications for those entrepreneurs.

If the property development business is operated as a sole trader, or a partnership, the profits made on selling the properties are subject to Income Tax at rates of up to 45% (46% in Scotland) plus Class 4 NIC.

Alternatively, if the renovated properties are held to generate rental income, the business is treated as property investment. In that case, any profits made on selling the properties are subject to Capital Gains Tax at 18% or 28%.

Where the business is operated through a company, the income and gains from property development or investment businesses are both subject to Corporation Tax at 19%. But companies are also liable to pay the Annual Tax on Enveloped Dwellings (ATED) for any residential property they hold which is worth over £500,000.

The ATED charge varies from £3,650 to £232,350 per year, but relief can be claimed for periods when the property is commercially let, or if the property is part of development trade. Renovating a single property can amount to a development trade, but to prove this the company should forecast the expected profits and produce a business plan. ●

Why deregister from VAT?

There are two valid reasons to cancel your VAT registration:

- you have ceased trading and have no intention of making future sales
- your sales in the next 12 months are expected to be less than £83,000

If your turnover for the last 12 months has been above the VAT registration threshold of £85,000, you will be required to submit VAT returns for periods starting on or after 1 April 2019 using MTD-compatible software, until and unless you cancel your VAT registration.

Where you are winding down your business, it may make sense to cancel your VAT registration sooner rather than later, to avoid having to buy new software to comply with MTD.

You can only ask HMRC to cancel your VAT number from a future date. From that date you must not charge VAT on your sales and you can't reclaim VAT on purchases.

Don't delay the deregistration date because you are waiting for some purchase invoices to arrive. Any VAT paid on costs relating to the period while your business was VAT registered can be reclaimed later on form VAT427. We can help you with that. ●

New rules for selling a home

If you are planning to sell your main home, a holiday home, or an investment property, you need to be aware of the rule changes around the corner.

When you sell your own home the gain is tax-free for the periods you lived in the property. If you move out before the property is sold, the gain for that final empty period is also tax-free, as long as that is no longer than 18 months. For sales from 6 April 2020, that final tax-exempt period will be limited to nine months, with an exception for owners who have moved into residential care or are disabled, when the final 36 months of gain is exempt.

The gain made on selling an investment property will normally be fully taxable at 28%, if you are a higher- rate taxpayer, or at 18% for a basic-rate taxpayer. However, where that property was once your main home, the gain relating to the time you lived there will be exempt, plus the last 18 months, reducing to nine months for sales from April 2020.

There is also an exemption for letting a former home, which can amount to up to £40,000 per owner. But beware; for sales from April 2020, that letting exemption will only apply to periods when the property owners were also in occupation. This will effectively wipe out lettings relief for sales of investment properties made on and after 6 April 2020.

When a share in the main home is transferred between husband and wife, or between civil partners, there is no tax payable on that transfer. The recipient also inherits the tax history of the property, as if they had owned their share for the same period as their spouse. This generous tax treatment will change from 6 April 2020, which may disadvantage some couples.

Please talk to us before you sell your property so we can work out the likely tax due in advance. ●

VAT penalties

If you don't submit your VAT return on time, or fail to pay the VAT due on time, HMRC will put your business on the fiscal naughty step. HMRC should tell you that your business is on its watch list by sending you a Surcharge Liability Notice (SLN), and a help letter if this is your first offence.

If you repeatedly file VAT returns late or pay VAT late, the SLNs will carry on arriving and penalties will be charged. These start at 2% of the late-paid VAT (minimum of £400), and the percentage rises each time an SLN is issued until it reaches 15% of the VAT that was paid late. If HMRC receives the VAT payment even one day after the due date, this still counts as 'late'.

The key to this process is the receipt of an SLN. If the business does not receive an SLN, any default surcharge (i.e. a monetary penalty) issued on the back of that SLN is invalid. HMRC doesn't keep copies of all the SLNs it issues, but it should keep an accurate list of the address each was sent to and when it was issued.

If you receive a VAT penalty out of the blue, and you weren't aware your business was in default with VAT payments or VAT returns, you can appeal against the penalty. There have been several cases recently where the tax tribunal has overturned VAT penalties because HMRC couldn't prove that the SLN was correctly issued.

Tip: if you have problems submitting your VAT return under MTD, make sure you pay your VAT on time, as that will neutralise any fiscal penalty. ●