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SUMMER NEWS

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Budget forecast

George Osborne is going to present another Budget on 8 July 2015. The backbone of this announcement is expected to be an illustration of where £12 billion of welfare cuts is to fall, but we should expect some tax changes as well.

In 2010 the Summer Budget that followed the General Election increased the rates of Capital Gains Tax with effect from the next day: 23 June 2010. The same could apply this year as the current rates of CGT (18% and 28%) are way below the top Income Tax rates: 40% and 45%. If you are planning to dispose of property, shares or even your business, exchanging contracts on the deal before 8 July 2015 could save you a slice of tax.

If you are purchasing a property remember Stamp Duty Land Tax (Land & Buildings Tax in Scotland) is payable by the buyer. The rates of SDLT on residential property were changed in December 2014, but the rates and bands for commercial properties were not touched. SDLT has proved to be a significant earner for the Government over the last five years, so a little more plucking of that golden goose is likely.

Pension contributions made by higher paid individuals attract huge amounts of tax relief. Conservative Party promised to reduce the level of contributions that those paying tax at 45% could make in each tax year. This restriction could apply instantly, so if you are in that tax bracket, and haven't taken full advantage of your pension annual allowance for 2015/16, review it now.

Finally the favourable tax treatment of non-domiciled individuals has come in for a lot of criticism recently. The rules as to who may claim to be non-domiciled could be altered, particularly for those who have inherited their non-dom status from their father or grandfather. If you have non-domiciled tax status you may want to take action to ensure that certain assets are kept out of the reach of UK Inheritance Tax. ●

Making good

Owner-managed companies frequently make payments on behalf of their directors, or lend money to those directors. An outstanding loan of £10,000 or more attracts a benefit in kind charge if the director doesn't pay the interest due on that loan at the official rate (3.25% for 2014/15).

HMRC practice is to consider the interest as paid for the tax year, when it is actually settled by the individual by 5 July following the tax year. If the interest remains unpaid, the loan must be reported on the form P11D by 6 July, creating an Income Tax charge for the director. The company must also pay class 1A NIC at 13.8% on the amount of the unpaid interest by 19 July.

Some tax inspectors insist that the class 1A NIC is due if the interest hasn't been paid, or the value of other benefits isn't "made good" within the tax year – by 5 April instead of 5 July.

This point was challenged recently at the Tax Tribunals. The Tribunal decided that if there is no Income Tax charge due, because payment was made to the company within the required period, no class 1A NIC could be charged.

Let's discuss how to minimise the tax and NIC charges on benefits and loans provided to directors. ●

More quarterly reporting

Any business that supplies the services of an individual to a client is now potentially caught by new reporting rules for employment intermediaries, unless one of the following exemptions applies:

- the business is the end-client for the worker, not an intermediary or agency
- the services of only one worker is supplied (one-man companies are exempt)
- the pay of all the workers is subject to PAYE and reported under RTI
- the work is done exclusively on the UK continental shelf (generally oil rigs)

Businesses that are not exempt must report the worker's details (name, address, NI number etc) and payment details (how much and when) if it hasn't operated PAYE on the worker's pay. This includes overseas workers and payments where the worker is working in the UK or working temporarily abroad.

The business does not have to report details of its own employees as those will have been reported under RTI.

The reports must be submitted to HMRC online using a specified template. Each report covers a three month period, the first begins on 6 April 2015, so the first reports are due in by 5 August 2015. We can help you understand your reporting obligations under these new tax rules. ●

VAT on vans

As a VAT-registered business you can usually claim back input VAT incurred on buying a commercial vehicle if it's used only for your business.

Commercial vehicles include: vans, lorries and tractors, but also motorcycles, motor caravans, car-derived vans and combination vans or combi-vans (also known as double-cab pick-ups). The difficulty with combi-vans is determining whether the vehicle is treated as a car or a van for VAT purposes.

HMRC has published a revised list of car-derived vans and combi-vans that states which models qualify as commercial vehicles, and thus whether VAT can be reclaimed on the cost. ●

Best use of allowances

As the sole owner/director of your company you need to judge how much to take out of the company as a salary to minimise the tax and National Insurance Contributions (NIC) you pay.

If your salary is more than £8,060 per year (in 2015/16) you will have to pay class 1 NIC at the rate of 12% on the excess above £8,060 up to £42,385 pa. However, Income Tax is not due until your salary tops £10,600 (the value of your personal allowance for 2015/16).

A tax-efficient solution is to take a salary of up to £8,060 and any further income you need as dividends up to £30,892 pa (£34,325 gross including the 10% tax credit). This assumes you don't have income from other sources.

This combination of low salary topped up with dividends results in you paying no Income Tax or NIC for the year, but it does give you an NI credit to qualify for the state pension. However, £2,540 of your personal allowance is "wasted" as the 10% dividend tax credit can't be reclaimed when your personal allowance is set against a dividend.

If your spouse works outside your business and pays tax at the 20% rate, another tax saving route is possible. You can transfer £1,060 of your personal allowance to your spouse. This will allow them to save tax of £212 (£1,060 @20%).

You tax position will not be affected as long as the dividend you take from the company doesn't exceed £29,938 (£33,265 gross) for 2015/16. The result is that your family as a whole has the same tax allowances, but the Income Tax paid by you both has decreased by £212. ●

Staff clothes

If you provide clothes for your staff to wear at work, you need to be aware of the tax and VAT implications, which may vary according to the items provided.

Where the clothes would be considered to be part or all of the staff uniform, overalls or protective clothing needed for the job, the cost is tax deductible for the business and the VAT can be reclaimed. There is no taxable benefit in kind for the employee.

In other cases the tax treatment depends on whether the employees are permitted to keep the items.

Where ownership of the items passes to the employee, and the value is more than £50 per employee per year, treat the provision of the clothes as a sale at cost price. Account for VAT as if the clothing items had been sold at the cost to you.

The value of the clothes provided may also be a taxable benefit for the employee, which needs to be accounted for either on the annual form P11D or as part of a payroll settlement agreement (PSA). Employees earning less than £8,500 may not be taxed on the value.

If the value of the items provided to a staff member is less than £50 per year, you can treat the cost of the clothes as a business gift. In that case you don't have to account for VAT on on the value. The taxman may also agree that the the value of the clothes is a trivial benefit which is not taxable on the employee. However, it's best to establish the position with the tax office in advance. We can help you with that. ●

Pension tax refund

If you have taken a cash lump sum from your pension pot since April you may have been surprised by the amount of tax deducted from the payment. In most cases the pension company will have calculated the tax using an emergency PAYE code, which generally means more tax was deducted than you are due to pay.

You should get that tax refunded when you submit your self-assessment return after the end of the tax year.

Alternatively you can make a tax refund claim now by completing one of the special forms for this purpose on the GOV.UK website.

There are three different forms: P55, P50Z and P53Z. The form you need depends on whether you have other income or not, and whether you have taken out your full pension pot or not. We can advise you which tax reclaim form is right for your circumstances. ●

Child care vouchers

The cost of childcare is a huge burden for many families, possibly out-stripping their monthly mortgage payments, so any help an employer can provide is very welcome.

Currently employers can provide tax-free childcare vouchers worth up to £55 per week to each qualifying employee. This amount is restricted to £28 or £25pw if the employee joined the childcare voucher scheme after 5 April 2011 and pays tax at 40% or 45%.

This scheme works well for employees, and can be used by owner-managed companies. But it can't apply to the self-employed, or where the employer chooses not to offer childcare vouchers. Some employees may also be worse off if the childcare vouchers are part of a salary sacrifice arrangement and they claim child tax credits which cover only 70% of the cash amount (excluding vouchers) they pay for childcare.

To solve these problems the Government is introducing a new scheme called "tax-free childcare" to take effect later in 2015. This will be open to all working parents of children aged under 12 (17 if disabled), whether the parents are employed or self-employed, but not to those claiming tax credits or Universal Credit.

Parents in an employer-provided childcare voucher scheme will be able to choose to move to the new scheme or stick with the existing vouchers. However, no new employees will be allowed to join an employer-provided voucher scheme once the new tax-free childcare accounts are launched.

Under the new scheme the parents will pay into a childcare account held with NS&I. For every £8 saved the Government will contribute £2, up to £2,000 per year per child. The childcare savings can only be used to make online payments to registered childcare providers, including nannies, childminders and school-based care.

Families with three or more children will get more tax-free support under the new scheme, but both parents must be working in order to qualify. Those earning over £150,000 are excluded from the new scheme. We can help you decide whether to stick with the current vouchers or move to the new scheme. ●

Auto-enrolment exemptions

You may have recently received a letter from the Pension Regulator telling you to prepare for auto-enrolment of employees into a pension scheme. But there is no reason to panic, as your company may well be exempt from the auto-enrolment requirements.

A company/employer is exempt if it doesn't have any "workers" at its staging date. The staging date is the date by which the employer must have a pension scheme ready for the employees to enrol in.

A company director is not a "worker" if he or she does not have a contract of employment with the company. A company with no staff other than its directors has no obligations under auto-enrolment if any of the following apply:

- It has only one director
- It has any number of directors, but none of those directors has an employment contract
- It has any number of directors, only one of whom has an employment contract

The Pensions Regulator doesn't know which of the directors in your company has employment contracts. It is also basing its letter on payroll data supplied by HMRC back in April 2012.

If your company meets the conditions above, you should confirm to the Pensions Regulator that you have no obligations for auto-enrolment by email to: customersupport@autoenrol.tpr.gov.uk. This should open a structured email in which you need to insert your PAYE reference, Companies House reference, and the letter code from the Regulator's letter.

If your company does have staff other than its directors, we should talk about what preparations you need to make to get ready for auto-enrolment. ●

No P11D due

If you have paid expenses or provided benefits to your employees in 2014/15 which weren't covered by a dispensation, or aren't exempt from tax, the amounts must be reported to HMRC on forms P11D or P9D. The deadline for submitting those forms is 6 July 2015. If the forms are not submitted on time, HMRC will issue penalties.

But how does HMRC know whether a P11D or P9D is due to be filed? In pre-RTI years, when you completed the end of year form P35 you had to say whether a P11D was due. Those P35 questions were carried over to the "final" RTI report for each tax year, which is normally a Full Payment Submission (FPS) report or Employer Payment Summary (EPS).

But, from 6 March 2015 there has been no legal requirement to complete those end of year questions, although most payroll software continued to include them in the final submission for 2014/15.

If you didn't complete the "Is a P11D due?" question on the final FPS for 2014/15, HMRC may assume a P11D is needed anyway. To avoid any problems with automatic penalties you can tell the HMRC computer that no P11D/ P9D is needed and no Class 1A NIC is due by completing an online declaration. We can help you with that. ●

Associated disposals

Entrepreneurs' relief reduces the rate of Capital Gains Tax to 10% on the disposal of an asset used by a partnership or company, where it is sold by a partner or shareholder in that business. To qualify for this tax reduction you must make an associated disposal of all or part of your stake in the business and withdraw at least partially from the business.

Until recently the conditions for the required withdrawal from the business were quite vague. This was tightened up from 18 March 2015 such that you must dispose of at least 5% of the share capital in your personal company, or at least 5% of the total value of the partnership, for an associated disposal of a business asset to qualify for the relief.

You don't have to retire completely from the business. You can continue to be involved as a partner or director, but your stake in the ownership of the business must be cut back.

This rule on associated disposals doesn't apply if you are a sole-trader disposing of the assets you have used in your business after that business has ceased. In that case gains made on the sale of the assets should qualify for entrepreneurs' relief up to the lifetime limit of £10 million.

Please ask us to check what tax relief will apply before you sell your business, or assets that have been used in the business. ●

VAT back for charities

Charities which provide the services listed below can now claim back VAT they have paid when purchasing items used for their non-business activities:

- air ambulance
- search and rescue
- medical courier
- palliative care

The charity must first be registered with HMRC as a charity. We can help you do that. If the organisation meets the requirements to be registered with the Charity Commission, the process is quite simple.

The charity doesn't have to be VAT registered to claim the refund of the VAT. If the charity is not VAT registered it should use form VAT126 to claim the refund.

Where the charity is VAT registered it should use box 4 on its normal quarterly VAT return to claim the VAT back on goods and services used for both its business and non-business activities.

In all cases the VAT on the non-business purchases can only be reclaimed in respect of items supplied to the charity on and after 1 April 2015. It is the date the services or goods are supplied to the charity which is relevant, not the date of the VAT invoice. ●

Employee Share Schemes

If you run an employee share scheme you need to report any events for the scheme in the annual return by 6 July 2015. This applies to tax advantaged share schemes (previously known as "approved" schemes), as well as to other share schemes.

To complete the annual share scheme return this year the scheme must first be registered through the new online system, even if the scheme has been previously approved by HMRC.

The scheme employer needs to complete this registration; we can't do it for you. If we normally handle PAYE on your behalf this can be a nuisance, as you need to find your codes and passwords to log in to HMRC's online PAYE portal.

Once the share scheme is registered we can submit the annual return online on your behalf.

Some share schemes – such as where employees or directors have acquired shares in the employing company outside of a tax advantaged scheme – will have no events to report in the annual return. In this case HMRC has confirmed that no action is required.

Do ask us if you are not clear about what needs to be reported regarding employee-held shares, as there are automatic penalties for late submission of annual returns. ●

EIS assurance

The Enterprise Investment Scheme (EIS) provides some very attractive tax breaks for investors who subscribe for shares in small trading companies. If you are thinking of attracting investors to your company using the EIS you should first get an advance assurance from HMRC that your company will qualify.

We can help you with this, but the range of companies that HMRC will grant assurance to has recently been reduced. The company may not qualify for EIS if it is:

- over 7 years from its first sale and has not previously received funding under the EIS, or other tax advantaged venture capital scheme
- it has received more than £10 million in funding under those schemes.

There is an exception to the 7-year rule if the company is seeking investment under EIS that exceeds 50% of its average annual turnover, and this is the company's first attempt at using EIS, or any other tax-advantaged venture capital scheme.

There are also new conditions for the individual investor. He or she must hold no shares in the company at the time they make their first EIS investment. However, subscriber shares issued when the company was founded, and shares already issued under SEIS or to a VCT are both ignored for this test. ●

What's it worth?

When you sell a house plus land, the capital gain made on the house may be exempt from tax if you have lived in the property as your main home. However, only land up to the "permitted area" (normally half a hectare), can be considered to be part of the home and hence exempt from Capital Gains Tax.

Where the amount of the associated land is significant, an apportionment of the total sale value of the property must be made between the tax-exempt home and the taxable land. The sum of market values of the two elements may well be less than the value of the combined property. The difference between the sales value of the whole property and the value of the two elements is called the "marriage value".

In a recent case HMRC wanted to allocate the whole of this "marriage value" to the taxable component of the property, leaving the tax-exempt house with a low proportion of the gain. The Tax Tribunal threw out this idea, saying that the marriage value must be allocated on a 50:50 basis between the taxable land and the tax-exempt house. This calculation coincidentally arrived at the value of the house which the taxpayer initially put forward to HMRC.

If you are planning a significant property sale, talk to us first so we can check whether the capital gain can be minimised. ●

Overseas landlords

If you live overseas and let property in the UK, you must pay attention to the requirements of the non-resident landlords (NLR) scheme.

You are classified as a non-resident landlord if your normal place of abode is outside the UK, even if you have lived abroad for as little as six months. You may find that you are still treated as UK-resident for tax purposes using the statutory residence test, but for the NRL scheme you are considered to be a non-resident landlord.

Once within the NRL scheme your letting agent or tenant must deduct tax from the rents due to you, unless HMRC grants approval for the rent to be paid with no tax deducted. The letting agent or tenant must make an annual report (on form NRLY) and account to HMRC for the tax deducted in each calendar quarter.

The NRLY form must reach HMRC by 5 July 2015 for the year to 31 March 2015, but HMRC are not sending reminders to letting agents. Interest will be charged on the late payment of tax by letting agents, and penalties are due for errors in returns.

To have the rent paid gross you need to apply through the GOV.UK website, but we can help you with that. Rent should only be paid gross for the quarter in which HMRC has given approval, and subsequent periods. ●