

2023

SUMMER NEWS



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The Calm Before The Storm?

After the multiple fiscal statements in 2022, which often reversed changes that had only recently been announced, the last few months have been relatively tranquil on the tax front. The Budget contained high-profile announcements of changes to childcare and pensions, but the former only begin being phased in next year and the latter only affect a small minority of taxpayers. Since April, most companies are paying significantly higher corporation tax rates, but this was legislated two years in advance.

Most income tax and National Insurance allowances and thresholds are now frozen until 2028, which will bring many more people into paying tax (or paying it at higher rates) as salaries increase, particularly in an era of high inflation.

The next Budget is likely to be the last before a general election so, despite the difficult economic background, it will be surprising if Jeremy Hunt, like Chancellors before him, doesn't find some money for tax cuts and, possibly, extra spending on electorally sensitive areas such as the NHS or schools. Whichever party is in power after the next General Election, it is likely that major tax reform will be high on the agenda, so we may look back fondly on this period of relative calm.

There is, though, much to be considering currently on the tax front, particularly if you run your own business. We are in the middle of the P11D reporting season and, in this newsletter, we remind you of some of the compliance issues in this area. With so many people struggling financially at the moment due to the 'cost of living crisis', borrowing money from your company may be an option (to help out yourself or family members), so we also discuss a number of the many tax implications of doing this.

Capital gains tax (CGT) bills will be higher this year for anyone making gains when disposing of assets, as the annual exempt amount for 2023/24 has been reduced to £6,000, less than half its previous figure. With interest rates soaring, many people with buy-to-let properties or second homes are thinking of selling them to reduce their borrowings. We remind you of the compliance in this area, which (perhaps bizarrely) usually requires two separate reports of the disposal to be made. The initial report has a very tight 60-day deadline, which is also when the CGT is due for payment.

There have been a number of changes to the rules for tax relief ('capital allowances') on plant and machinery (P&M) this year, although these mainly impact larger businesses. However, smaller businesses can still write off fully for tax purposes up to £1 million of P&M expenditure. Note though that most cars get much slower tax relief than this (with a few exceptions, such as dual-control driving instructor cars). Buying electric vehicles for your business is still very tax-efficient, however, with 100% tax relief on the cost of new vehicles (or ex-demonstrator ones) and relatively low benefit charges for the staff who have them.

One thing is certain: tax has become more complicated in recent years. This trend is likely to continue, so it is very important that you consider tax at an early stage in your decision-making process, whether to do with business matters or personal ones (e.g. deciding to cash in investments or to transfer assets to family members). We are here to help you negotiate this tax minefield, **so please speak to us if you are planning any major transactions soon**. Tax planning can often save a lot of money in the long run.

Please get in touch with us if you have questions on any of the above matters, or the others mentioned in this newsletter.

Payroll hygiene

The HMRC computer can be confused by incorrect information in PAYE returns, which may then result in a demand for more tax than you have deducted from your employees. This may happen when the HMRC computer records a duplicate employment for an employee, without ceasing the previous employment.

For example, you take on William Smith and pay him a regular salary of £2,000 per month. On the first payroll return he is correctly recorded as William Smith. However, on a later return his name is abbreviated to Bill Smith. The HMRC computer will assume that William Smith and Bill Smith are two different people.

As the employment record for William Smith has not been closed, the HMRC computer will generate a PAYE charge for both William and Bill on the basis that you have paid out £4,000 in salary that month to both William and his doppelganger Bill.

Here are some tips to avoid duplicate employment records:

- Use consistent employee names;
- Use a unique payroll number for each employee;
- Do not re-use employee numbers;
- If an employee re-joins your payroll after leaving, give that person a new payroll number and reset their year-to-date payment information to zero;
- Only include the start date on the first Full Payment Submission (FPS) when a new employee joins and do not alter that start date later;
- Use the 'irregular payment pattern' indicator for any employee who is paid infrequently.

Be particularly careful about payroll numbers. If you are using new payroll software for the first time, or are merging two payrolls, so that new payroll numbers are needed, the payroll ID 'change indicator' must be used.

If you receive a PAYE charge that is more than you expect, please contact us without delay.



Paying your PAYE

To ensure that your PAYE payments get to the right place within HMRC's systems, you must quote the correct reference when making the payment. This is made up of your 13-character PAYE reference number (HMRC call this your Accounts Office reference), plus 4 digits to identify the tax period. For the tax month to 5 August 2023 add on '0423'.

The payment should arrive with HMRC by 22nd of each month, but if that falls on a weekend, pay by the last working day before that deadline. If you use "Faster Payments" or telephone banking the payment will be processed the same day, even on a weekend or Bank Holiday.

If you don't pay the PAYE and other payroll deductions to HMRC on time, you will be charged late payment interest, the rate of which is currently 7% p.a. In addition, after the first late payment, you will receive a penalty calculated on the amount of PAYE outstanding, as shown

Number of late payments in tax year	First Penalty	Additional penalty after 6 months	Additional penalty after 12 months
1	none	5%	5%
2-4	1%	5%	5%
5-7	2%	5%	5%
8-10	3%	5%	5%
11 or more	4%	5%	5%

in the table below.

If you are struggling to pay your PAYE, consider applying for a time to pay (TTP) agreement with HMRC, in order to spread the payment over a few months. This TTP agreement will be granted automatically if your business meets all these conditions:

- All PAYE and Construction Industry Scheme (CIS) returns have been submitted;
- PAYE debt is less than £15,000;
- No other tax debts exist;
- You apply within 35 days of the date the PAYE was due;
- The TTP plan will pay off the debt within 6 months.

If all the above conditions aren't met, TTP agreements must be negotiated individually with HMRC. **We can help you prepare for such discussions and also help you to negotiate a bespoke TTP agreement.**

Reporting benefits and expenses

HMRC has made it clear that employers must submit their reports of benefits and expenses provided to employees (P11D forms) in electronic form this year. All paper P11Ds will be rejected, as will any paper amendments to P11Ds for earlier years.

There are now only two options open to you to submit your P11D:

- Commercial software; or
- HMRC's PAYE online service - suitable for up to 500 employees on one payroll.

The deadline for submitting the P11D information for the tax year to 5 April 2023 is 6 July 2023. **We can help you with this task.**

Where employer's NICs are due on the value of benefits provided, this payment must reach HMRC by 22 July 2023, if you pay electronically.

If you find the P11D process a total pain, you could opt to tax the value of the benefits through the payroll during the year – this is called "payrolling benefits".

Under payrolling, the taxable value of the benefit for the pay period is added to the employee's taxable pay; the income tax due is then deducted from their gross pay in real time and paid to HMRC. The employer's NICs are still paid after the tax year-end as now, so a form

P11d(b) must be submitted.

The advantages of payrolling benefits are:

- No P11D is required for the employees within payrolling;
- Employees don't get a nasty shock of a tax bill after the year-end;
- There are no surprising amounts in tax codes issued the following year;
- All benefits are visible on the employees' payslips;
- It reduces the risk of errors, as the employee can see the benefit on each payslip and query it if necessary.

Almost all benefits can be payrolled, the exceptions being beneficial loans and employer-provided accommodation. Payrolling company car benefits also removes the need to submit a P46(car) when a car is first provided to an employee.

In order to start payrolling benefits for the tax year 2024/25, you need to apply to HMRC by 5 April 2024. You will need to give your employees a factsheet to explain what is being payrolled.

Please contact us if you want further information about payrolling benefits or have any questions as to the taxable value of a benefit.

Settle tax on behalf of your employee

There are various tax exemptions you can use to provide an employee with a one-off tax-free reward, such as certain 'trivial' benefits or long-service awards. If the value of the reward exceeds the tax-free amount permitted, you can bear the tax and NICs (which the employee would normally pay) under a payroll settlement agreement (PSA) negotiated individually with HMRC.

The PSA procedure can also be used where the value of some occasional benefits provided to a group of employees, such as taxis home after working late or a staff party, exceeds the exempt amount permitted by HMRC.

Before you enter into a PSA, you need to know that the costs can be significant, as the benefit received is treated as being net of the associated tax and NICs charges. It is therefore not a case of merely applying the normal tax rates to the benefit received. For a top rate taxpayer, the tax and NIC can amount to 107% of the value of the

benefit provided. However, this cost needs to be set against the savings you make in administrative time (by not having to deal with the benefit through the P11D or payroll) and employee goodwill generated, as your staff don't pay the tax on the benefit they have received.

Until recently the PSA had to be applied for using the form P626. However, there is now an online service you can use to apply for a PSA. Whether you use the paper form or the online facility, HMRC will send you the finalised agreement by post, although a confirmation or receipt of your application will be sent by email or letter.

To set up a PSA for benefits provided in 2022/23 you need to enter into the agreement with HMRC no later than 5 July 2023. The tax and NICs due under that PSA must be paid by 22 October 2023.

Please contact us if you want to apply for a PSA.



Keep your company's tax rate low

Corporation tax rates have risen since 1 April 2023. In overview the rates are:

Profit band	Corporation tax rate
0 to £50,000	19%
£50,001 to £250,000	26.5%
Over £250,000	25%

There are some exceptions. For example, if you own an investment company, all its profits may be taxable at 25%, irrespective of the level of profits.

These profit thresholds are reduced where there are 'associated companies' (broadly, companies under common control). However, companies owned by close family members (e.g. spouse, sibling or adult child) that have substantial commercial interdependence with your company may also be treated as an associated company. Dormant companies are always ignored, however, as are 'passive holding companies' (i.e. ones that do nothing other than receive dividends from their subsidiaries and pass them on to their shareholders).

For example, Fred owns 100% of Dino Ltd and 60% of Flintstone Ltd. As Fred

controls both these companies, there are two associated companies under Fred's control, and the above profit thresholds are divided by two for each company (e.g. they would only pay tax at 19% on profits up to £25,000).

Fred's wife Wilma also owns two companies: Pebbles Ltd and Bamm Ltd. Although Fred and Wilma are connected as husband and wife, Wilma's companies are not associated with Fred's companies because they are run independently, have no economic or organisational ties and no other financial connections.

Where your company has commercial relationships with companies controlled by your relatives (e.g. inter-company loans or they operate from the same premises), **we should discuss how this may affect the corporation tax payable by all of those companies.**

Moving expenses between financial years can reduce the taxable profits below one of the relevant profit thresholds and reduce the total tax paid. For example, tax relief for pension contributions paid by the company can significantly reduce the company's taxable profits. The timing of, for example, advertising expenditure or purchases of plant and machinery can also help to minimise your company's tax.

Director's loan account

Your company may pay personal expenses on your behalf for which you later reimburse the company, or it might otherwise lend you money. This means you have a variable outstanding debt owing to the company, which is known as a director's loan account.

Where that debt exceeds £10,000 at any point in the tax year, this triggers a taxable benefit for you based on the nominal interest you should have paid on the loan for the whole period during which the loan was overdrawn (not just the days when the balance was above £10,000). The company also has to pay Class 1A NICs at 13.8% on the value of the benefit.

Say you owed the company £12,000 and that debt was outstanding from 6 April to 5 July 2023, when it was cleared by a dividend. The benefit in kind would be: $(2.25\% \times 12,000) \times 3/12 = £67.50$. As a 40% taxpayer you would pay tax on this benefit of £27. The company would pay NICs at 13.8% on £67.50 = £9.32.

If your loan from the company was not repaid by the date the corporation tax is due (9 months and 1 day after the end of the accounting period), the company also has to pay a corporation tax charge at 33.75% of the loan. This charge can be recovered when the loan is repaid, but it's a big incentive to clear the outstanding director's loan account within nine months of the year-end.

Please discuss with us the most tax efficient way of clearing any loan from your company, but be aware that the value of the loan will be taxable on you if it is waived or written off by the company.

HMRC doesn't want your call

HMRC is nudging taxpayers to find answers to their questions on gov.uk rather than calling their helplines.

It has already closed the VAT registration helpline, as the vast majority of calls to that line were chasing VAT registration applications, which now take at least 40 working days to approve. If you want to know when your VAT number will be assigned, HMRC ask you to use the *Where's my reply?* online tool on its webpages.

If you call HMRC for another reason, you will be asked by the computer to state the reason for your call. Where your answer is interpreted by the software as being a routine query and you are calling from a mobile phone, you will receive an SMS message containing a link to the relevant information, then the call will be disconnected.

Answers for many of the 18 "routine queries", such as your income or employment history, can be found in your online personal tax account (www.gov.uk/personal-tax-account).

Please ask us if you can't get an answer from HMRC.

Selling your buy-to-let

There are two important dates to mark on your calendar when you sell an investment property.

The first is 60 days after the completion date for the deal. This is the deadline for submitting the online UK Property Return, to report the taxable gain you make on the deal. It is also the deadline for paying the capital gains tax (CGT) due.

If you live in the UK and there is no CGT to pay (because, for example, the gain is covered by your capital gains exemption), there is no requirement to submit the UK Property Return. The capital gains exemption available for 2023/24 is £6,000.

The second important date is 31 January following the end of the tax year in which you exchanged contracts on the deal (e.g. 31 January 2024 for a disposal in 2022/23). This is the deadline for submitting your self-assessment tax return (SATR), which also reports the gain or loss you make on the sale of your property.

For example, Maxwell agrees the sale of his property on 1st June 2023 (exchange date) and completes the sale, receiving the proceeds on 1st September 2023. Maxwell must make the following reports and claims:

- UK Property Return and pay CGT due – by 30 October 2023
- SATR – by 31 January 2025

We can help you file both these returns, but we need to know about any property sales promptly after completion.

VAT on land and buildings

When you are acquiring a commercial building, you need to know whether the purchase price will include VAT. Older non-residential buildings will normally be exempt from VAT, but not if the owner has opted to apply VAT ("opted to tax") at some point.

Once this option to tax (OTT) is in place it lasts for at least 20 years, so it is important to confirm the correct VAT position. Unfortunately, HMRC has said it will no longer confirm whether VAT should be added to the price if the OTT decision was made less than six years ago. Questions regarding an OTT decision recorded over six years ago will be actioned by HMRC, but probably not with any urgency.

Going forwards, the building owner is responsible for recording and preserving the OTT decision should HMRC ever ask, or a potential purchaser needs proof of the VAT status of the building.

Where you have bought the premises to let out, you may want to charge VAT on the rents, so that you can set off any VAT you pay on costs relating to the building. In this case you need to make an OTT application yourself and inform HMRC.

We can help you with this.

Pension contribution limits relaxed

The annual allowance (AA) caps the amount of tax-relievable pension inputs that can be made to a registered pension scheme. For money purchase (defined contribution) schemes (which include all personal pensions), the inputs are the total amounts contributed by you and your employer. In a defined benefits scheme (such as one where the eventual benefits you will receive are based on your final salary), the inputs are not the cash contributed to the scheme; instead, there is a much more complicated way of determining the inputs. This is based on the increase in the member's benefits that has accrued in the year. Thus, with benefits based on salary, a relatively small increase in earnings can lead to a high pension input.

In his Spring Budget the Chancellor raised the AA to £60,000. If that pension annual allowance isn't fully used, you can carry forward the excess for up to three tax years.

For high income pension savers, the AA gets restricted. However, this restriction has also been relaxed and does not now apply until income goes above £260,000.

Some taxpayers with substantial pension pots worry that they will be taxed

at 55% when they start to access their pension savings, but this penalty tax charge has now been removed. There is no limit on the amount of savings you can shelter from tax within your pension fund, although the pension benefits are taxed at your marginal tax rate when you take them, subject to the 25% tax-free lump sum (which for most people is capped at £268,275).

It is also easier to carry on making pension contributions once you have started to access any defined contribution pension benefits. If benefits over and above the tax-free lump sum are taken from such a scheme (other than by buying a pension annuity), the normal £60,000 AA is not available. Instead, the money purchase annual allowance (MPAA) applies, which has been increased from £4,000 to £10,000. For example, you could draw benefits from one pension pot and continue to pay up to £10,000 per year into another scheme.

Before deciding how or when to take your pension benefits, or how much you should contribute to your pension scheme, be sure to take independent financial advice. **We are though happy to explain what are often very complicated tax rules to you.**

Improve your state pension

If you have gaps in your NICs payment record, you may not receive the full state retirement pension. You can easily check your NICs record for your entire working life in your personal tax account on gov.uk (www.gov.uk/personal-tax-account).

You need at least 35 complete NICs years to receive the maximum state retirement pension, and at least 10 completed NICs years to receive any of the state retirement pension. This can come as a shock when you reach state retirement age, but by that time it is often too late to fill the gaps.

If your NICs record is not complete, do investigate the reason for the apparently missing contributions. You should ask HMRC to check for NICs credits due to you for periods when you were not working but were claiming benefits, including child benefit.

We can help you with this. NICs credits should have been given automatically for these periods.

Where there is a genuine gap in your NICs record, you can normally pay voluntary contributions to fill in the missing weeks for periods in the last six tax years.

However, currently there is a special dispensation that allows women born after 5 April 1953 and men born after 5 April 1951 to complete gaps in their NICs records right back to 6 April 2006. You can pay the voluntary NICs at the 2022/23 rate of £15.85 per week instead of the current rate of £17.45 per week.

This opportunity to make up these old years with voluntary NICs payments was due to close on 31 July 2023.

On 12 June this was extended to 5 April 2025.

