2019

AUTUMN NEWS

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Uncertain times

We are living in a state of unprecedented uncertainty. We don't know if the UK will leave the EU on 31 October 2019 or not, although at the time of writing the current Prime Minister insists that this is the immoveable Brexit date. There may also be a general election before the year is out.

As a business it is sensible to prepare for all likely outcomes, so gearing up for Brexit can no longer be put off. This newsletter contains some advice about what you need to do if you are an importer or exporter, or if you sell electronic services across international borders.

HMRC has diverted staff to help with the Brexit preparations, and this is having a knock-on effect for other tax projects. The introduction of the VAT reverse charge system for businesses in the construction industry, which was due to come into effect on 1 October 2019, has been postponed for a year to October 2020.

If your business has already made changes to prepare for the construction industry reverse charge, such as altering your VAT period from quarterly to monthly, you can easily alter your VAT periods back to quarterly through your business tax account, or we can do that for you. If you have requested to leave the VAT flat rate scheme on 30 September, that decision can also be changed. HMRC will be sympathetic to businesses who need to make changes because of the short notice given for postponement of the reverse charge.

The Making Tax Digital (MTD) regulations came into play for most VAT-registered businesses for the VAT period that began on 1 April, 1 May or 1 June 2019. However, some complex businesses have a start date for MTD for VAT as the period beginning on 1 October, 1 November or 1 December 2019. This may be another reason why the reverse charge for the construction industry has been deferred for a year. ●

Overseas landlords

Living overseas and managing a let property in the UK is never easy, but HMRC has just made the task a little more difficult by sending disturbing letters to overseas landlords and to their tenants.

The letters are targeted at landlords who hold the property through a corporate structure or a trust. HMRC has been reminding the landlord that it may need to pay the Annual Tax on Enveloped Dwellings (ATED) for periods when the property was not commercially let. We can help you check if the ATED is due for your property, or if a relief should be claimed.

Non-resident companies currently pay Income Tax on profits from letting UK property instead of Corporation Tax. This will change from 6 April 2020. HMRC is telling landlords that the company must register for Corporation Tax in the UK from April 2020. We can help you with that.

Some tenants of overseas landlords have also received letters from HMRC. These letters imply that the tenant should deduct tax from their rent and send that tax to HMRC.

This is alarmist, as the obligation to deduct tax lies with the letting agent, if there is one. Where the landlord is already registered with HMRC through the non-resident landlord scheme to receive rent gross, there is no obligation to deduct tax from the rent at all.

The best approach is to reply briefly to HMRC giving contact details of the landlord or their letting agent. It is not the tenant's responsibility to tell HMRC about their landlord's ownership structure. ●

Off-payroll working

For over 20 years the government has viewed independent contractors as tax avoiders if they work through their own Personal Service Company (PSC). This is why the IR35 rules were put in place – to get the contractor to pay approximately the same tax and NIC as an employee – if they work under conditions identical to the employees of their customer (the engager).

In truth, the IR35 rules are frequently ignored, as in the private sector it has been up to contractors to apply the rules to themselves. In the public sector, since April 2017, the engager has had to decide whether the contract is effectively one of employment and thus whether tax and NIC should be deducted under PAYE.

From 6 April 2020, large engagers in the private sector will have to determine the employment status of their contractors and thus whether to apply payroll taxes. The engager must issue an employment status determination for each contract worked by a freelance contractor.

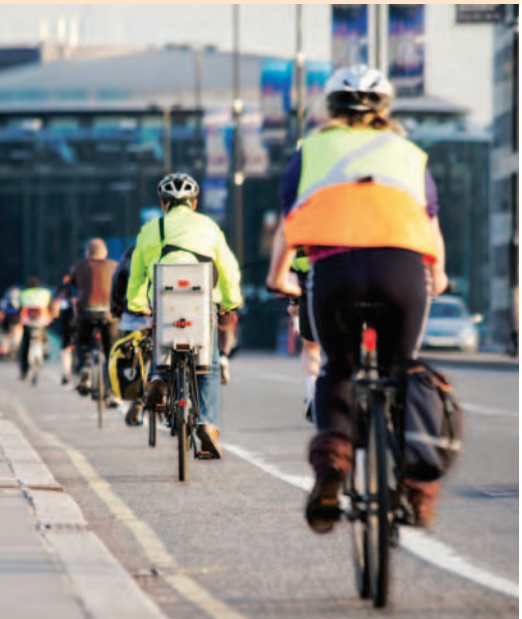
This decision will be passed down the chain of agencies until it reaches the contractor. In this way, each link in the chain should be informed of the engager's decision about the contractor's status.

As a contractor you can object to the employment status decision, giving reasons, and the engager has 45 days to respond. Meanwhile if the engager has decided that the off-payroll rules apply, it must continue to deduct tax and NIC from your fee.

Small private sector engagers won't be required to apply these rules to their contractors. In those cases, contractors will carry on making that IR35 decision for each contract, as they do now.

For these purposes a small engager is one that meets at least two of these conditions for the accounting period ending in the previous tax year:

- less than £10.2m turnover
- less than £5.1m balance sheet value
- no more than 50 employees



VAT on electronic services

Selling electronic services, such as ebooks to non-business customers in other EU countries, can cause complications for VAT.

The rule for e-services is that you should account for VAT at the rate due where your customer is based. The rate of VAT due on digital publications has been reduced in many EU countries this year, so check out the appropriate VAT rates published on gov.uk.

You should report and pay the VAT charged through the VAT MOSS system accessed through HMRC's online VAT service. However, since 1 January 2019, if you sell less than £8,188 per year of electronic services across EU borders you don't have to charge VAT at the local rate for your customer and you don't have to worry about VAT MOSS reporting.

When the UK leaves the EU and if no other arrangements are then in place (no-deal Brexit) the VAT MOSS exemption will immediately fall away as the UK will be a non-EU country. Many UK businesses which have used the turnover exemption from VAT MOSS from 1 January 2019 will be pulled back into that regime.

If your business is still registered for VAT MOSS, that registration will be cancelled automatically from the day after the UK leaves the EU, unless other arrangements have been put in place to extend that system to non-EU countries.

Where you continue to make sales of electronic services to non-business customers in EU countries after the UK leaves the EU, you will have to re-register for VAT MOSS as a non-EU business in an EU country (i.e. not in the UK). ●

Pay tax on gains in 30 days

When non-resident owners sell UK land or property (of any type), they must pay any Capital Gains Tax (CGT) within 30 days of the completion date of the sale, and submit an online report to HMRC by the same date.

This 30-day payment deadline is being rolled out to all UK owners of residential property for sales made on or after 6 April 2020.

From that date, if you make a gain on selling a home, any CGT due will have to be paid in full within 30 days. You will need to estimate whether or not you will be a higher-rate taxpayer for the tax year, in which case the CGT is due at 28%, otherwise at least some of the CGT is charged at 18%. However, those tax rates could be changed before April 2020.

This is a massive acceleration on the current payment date for CGT, which is currently 31 January after the end of the tax year in which the property was sold.

Say you sell your buy-to-let property on 1 October 2019, the CGT will be payable by 31 January 2021. If you wait until 1 May 2020 to sell the same property, the CGT will be payable by 31 May 2020.

We will need to know about your property sales as soon as they are agreed, so we can help you calculate the tax due and submit the property disposal return to HMRC within 30 days of the completion date.

You will also have to report the capital gain on your self-assessment tax return after the end of the tax year, and at that stage you may be due a refund of CGT if you have made any other disposals generating capital losses in the year. ●

Cycle to work

To help your employees get to work, you could subsidise their travel on a local public bus service, lay on a works bus, or provide a cycle to work scheme.

The cycling option not only keeps your workers fit, but it allows them to acquire a desirable bike, even one with a super carbon fibre frame.

The employer buys the bicycles and associated safety equipment to lend to employees; alternatively, it contracts with a specialist bicycle hire firm which provides the bikes directly to the employees.

After a period of at least 12 months, the employee has the option to purchase the bike at a significant discount. When the price paid by an employee is within a range of values agreed by HMRC, there is no taxable benefit for the employee on acquiring the bike, and no tax to pay.

There should be a consumer hire agreement in place with each employee who takes advantage of the scheme. If the bicycle costs over £1,000, that consumer hire agreement has to be made by a company authorised under the Financial Services and Markets Act 2000 (FCA-approved), but if that is in place there is no limit to the value of the bicycle offered.

The cycle to work scheme is frequently provided as part of a salary sacrifice arrangement, where the employee forgoes an amount of salary in return for the bicycle.

These salary sacrifice arrangements can still save tax and NIC for both the employee and the employer. ●

Preparing for Brexit

The Government is urging businesses to prepare for changes to customs, excise and VAT procedures when the UK leaves the EU. This is expected to happen at 11pm on 31 October 2019, but there could be a further delay until 31 January 2020.

If there are no arrangements in place to temporarily keep the UK within the customs union (no-deal Brexit), import and export procedures will change immediately. Goods that travel over international borders will need to clear customs twice:

1. when the goods leave the UK (exported goods)
2. when the goods enter the territory in which they are received (imported goods)

The customs declaration on export is normally done by the exporter, the customs declaration on import is normally done by the importer who receives the goods.

In order to clear UK customs, either for importing or exporting goods, a UK-based business will need an Economic Operator Registration and Identification (EORI) number issued by the UK. This is a 12-digit number starting with GB which includes the business's VAT registration number.

If a UK business imports goods into an EU country – say it sends goods from its UK factory to its branch in Germany – it will also need an EORI number issued by the EU for the import side of that movement.

HMRC is allocating EORI numbers to VAT-registered traders which it believes have traded with EU countries and don't already have an EORI number. You may have received a letter about your new unique EORI number.

If your business is not VAT registered it will still need an EORI number if it moves any value of goods across the UK border. There are special arrangements in place for moving goods between Northern Ireland and the Republic of Ireland, so businesses won't require an EORI number for most types of goods which are moved across that Irish border.

In addition to clearing customs, the UK business will have to pay VAT on any goods imported from the EU into the UK. A trader can register for transitional simplified procedures (TSP), which is an additional process to the EORI number. There may also be tariffs to pay on certain goods, and health and safety certificates to acquire.

You can apply for grants for training to complete customs declarations, and for the IT changes you will need to cope with all the customs filings. However, if your tax returns have been submitted late you won't be eligible for either type of grant. ●

VAT for start-ups

It takes a lot of planning to start a new business from scratch. You may have to pay up front for some goods and services before you form the company to trade from.

Once your company is VAT registered you can claim back VAT incurred on those pre-incorporation costs, if there is a direct link between the costs and the future sales made by the company. But there are four other conditions to be aware of:

- Any goods acquired either to sell or use in the business must have been purchased no more than four years before the VAT registration date, and they must still be held on that day
- Services must have been incurred no more than six months before the VAT registration date
- The goods or services must be supplied to a person who becomes a director, employee or shareholder (not necessarily all three!) of the company when it is formed
- The company must reimburse the individual for those costs, or undertake to pay the costs directly

Talk to us at an early stage of your new business and we can help you reclaim all the VAT which is due. ●

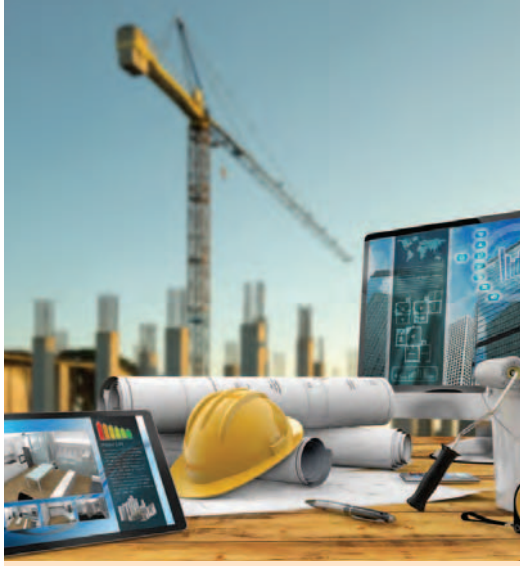
Re-enrolment in a workplace pension

For many employers, the aggravation of setting up auto-enrolment of staff into a workplace pension was over years ago, but it's not a task that can be done once and forgotten.

All employees who opted out of the workplace pension must be re-enrolled in that pension after three years. You do this by writing to each staff member who should be re-enrolled within six weeks of the re-enrolment date.

You choose your own re-enrolment date, but it must fall within a six-month time frame based on the date you had to start auto-enrolment for the first time. Once you have re-enrolled all the employees to whom this rule applies, you must submit an online declaration of compliance to The Pensions Regulator within five months of the re-enrolment date. We can help you with that statement.

Those individuals who are automatically re-enrolled into the pension can immediately opt out again if they choose to do so. Individuals with very large pension pots may be advised to do this if they have taken steps to protect the level of their pensions lifetime allowance. ●



Tax relief for buildings

For years you have been able to claim tax relief for the cost of equipment installed within or on buildings, such as shop fittings, but not for the cost of the building itself. That changed from 29 October 2018.

You can now claim a Structures and Buildings Allowance (SBA), which is equal to 2% of the cost of acquiring or constructing a commercial building that is used for your business. You must incur the costs on or after 29 October 2018, and any construction contract must have been signed on or after that date.

You can claim the SBA on a range of costs including building, renovating, repairing, fitting out, site preparation and design. If you buy a newly constructed commercial building that should qualify, but in that case the SBA is calculated on the lower of the construction costs and what you paid for the whole building.

To make a claim for the SBA you need to have received an "allowance statement" for the building. The first business that uses the building creates the allowance statement and passes it on to the next user when the building is sold. An allowance statement is also needed for any new extensions or renovations completed for existing structures.

Your conveyancing solicitor should ask for the allowance statement as part of the deeds when you acquire a commercial building.

You can't claim the SBA on the costs of any residential properties, including buildings located in the grounds of a residence such as a home office. Properties used for furnished holiday lettings or for residential letting don't qualify for the SBA.

You should submit your SBA claim as part of your Corporation Tax return, or Income Tax return for an unincorporated business. We can help you do that, but don't forget to tell us how much you have spent on any commercial buildings since 29 October 2018. ●

Cryptoasset confessions

Have you dabbled in cryptoassets such as Bitcoin and Litecoin? Buying and selling amounts of any cryptoasset is treated just like dealing in shares or bonds, so if you make a large gain you need to declare that on your tax return.

A gain or loss is made whenever a cryptoasset is exchanged for another one, or given away, or surrendered for payment made in a legal currency, such as US dollars or pounds sterling.

Transactions in cryptoassets made by UK-resident taxpayers must be calculated and reported in sterling, which means both the buy and sell value has to be stated in sterling. Thus, the gain will incorporate an amount of exchange gain or loss as well as the change in value of the underlying asset.

Where the volume of transactions is very large, you may be considered to be trading in the cryptoassets, and your profits or losses should be subject to Income Tax. However, HMRC will resist that approach.

HMRC has written to cryptocurrency exchanges that do business in the UK, asking for customer data and transaction histories. If you have used a UK firm to acquire crypto-currencies, HMRC may already have details of all your cryptoasset transactions. ●

VAT on small parcels

When you order goods online you don't expect to pay any additional taxes when they are delivered. This is currently the case for goods ordered from a supplier in the UK or the EU.

However, if you order goods from outside the EU you may receive a notice saying you must pay the import VAT before the goods can be delivered. If the supplier has already charged you the import VAT, you should not have to pay it twice.

If the UK leaves the EU without other arrangements in place (no-deal Brexit), import VAT will be due on all parcels of goods worth no more than £135, which arrive in the UK from the EU or from other countries. If the parcel is a gift to the recipient no import VAT is payable, but the parcel must be clearly marked as a gift from an individual to another individual and must be intended for personal use.

The business which sends the parcel to the customer in the UK should register with HMRC and pay the import VAT, or arrange for the parcel operator to pay the VAT. The registration is required even if the goods are zero-rated for VAT.

If your business relies on goods sent as small parcels through the post, be aware of this change in the rules. If you are sending small parcels to non-business customers in other EU countries you may have to pay import VAT to those countries. ●

VAT on imports

Leaving the EU without an agreement in place (no-deal Brexit) is going to create some VAT challenges for businesses which import goods.

Currently, import VAT is payable on goods imported from non-EU countries, and that has to be paid up-front. This import VAT would also have to be paid up-front on any goods coming in from EU countries after Brexit, unless other arrangements are put in place.

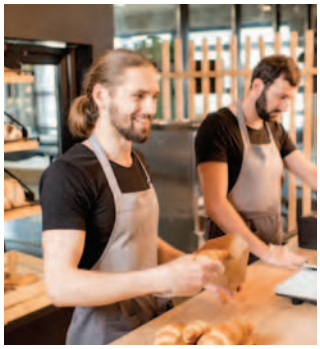
The Government is proposing that, immediately following a no-deal Brexit, all import VAT will be paid on a postponed basis. This means VAT-registered businesses will account for import VAT on their VAT return, rather than paying import VAT at the time that the goods arrive at the UK border. This procedure will apply to all imported goods from the EU and from non-EU countries.

Customs declarations and the payment of any other duties will still be required at the border, but at least the VAT problem will be parked.

This will of course open up the possibilities for VAT to go missing in the supply chain and no doubt the Government will have to put in other measures to counter that. ●

Starting a business

Many businesses start slowly. At first there are a few occasional sales, and only after the individual has convinced themselves they can effectively deliver the product or service will the entrepreneur enthusiastically launch their business.



You should tell HMRC about the start of your new business within six months of the end of the tax year in which it started. To do this you need to decide exactly when the new business commenced. Is it when the first sale was made, or was it much later when a viable business seemed possible?

If you have had a stop-start business launch, the Trading and Miscellaneous Income Allowance (TMIA) can help you out.

The TMIA can cover up to £1,000 of trading or other sundry income per tax year. It doesn't matter when the sales were made within the tax year, if the total is less than £1,000 the TMIA will cover them, and the allowance doesn't have to be claimed on the tax return.

Example

Liam quit his job to launch his baking business in June 2019, having made a few test sales in January to March 2019 which amounted to £300.

The sales before 6 April 2019 can be covered by the TMIA of £1,000, so the real business can be said to start in June 2019 within the tax year 2019/20. Liam has until 5 October 2020 to tell HMRC about his new business and register for self-assessment.

Liam won't have to complete a self-assessment tax return for 2018/19 as his taxable income was fully reported and taxed under PAYE for that year. ●

Check your tax statement

Where individuals don't submit an annual tax return, HMRC reconciles the tax which has been deducted from their pay or pension under PAYE with the total tax which should have been paid for the year. This reconciliation for the tax year 2018/19 takes place between June and November 2019.

Where there is a discrepancy (under or over), HMRC will issue a tax computation on a form P800, or it may issue a form PA302, which will ask for tax to be paid.

If you receive either type of tax statement, check the figures against other statements you have received from your employer or pension provider, such as forms P60, P45 or an expenses and benefits declaration. You should check whether something has been counted twice or is missing.

Where your tax computation includes bank interest or dividends received, check these figures agree with the savings income paid into your bank accounts between 6 April 2018 and 5 April 2019. It is not uncommon for the amount of interest to be estimated based on a previous year.

Finally, check that all the allowances you have claimed are included in the tax computation. There has been a recurring problem with the transferable marriage allowance going missing when it has been claimed.

We can help you check the figures on your tax computation. ●