Tax Briefing

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Chorus accounting

Sound business advice

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Time to choose childcare support

Parents are faced with a bewildering choice of how to fund childcare costs. Employers can help by giving employees tax- and NIC-free childcare vouchers; by directly contracting with a childcare provider to provide places for employees' children; or by running a workplace nursery.

The schemes to provide childcare vouchers or directly contracted childcare will only be open to new applicants who join before 5 October 2018. Employees who have signed up to one of those schemes before that date can continue to receive tax-free childcare up to the permitted weekly limit (£55, £28 or £25 depending on their marginal tax rate) until they leave the scheme.

Children qualify for this employer supported childcare until 1 September after their 15th birthday (16th for disabled children). The vouchers can only be redeemed with registered childcarers, so they can't be used to reimburse grandparents who provide childcare, unless those individuals are also registered child minders.

The savings in tax-free childcare accounts, can only be used to pay for care for children aged under 12 (17 if disabled). Under this scheme, the government contributes £2 for every £8 the parent (or other relative) deposits into the account, up to a maximum of £2,000 of government support per child per year.

A parent is not supposed to double-up their childcare support by also receiving employer-provided childcare vouchers or directly provided childcare. The parent should tell their employer in writing, within 90 days of opening a tax-free childcare account, that they have done so; the employer should take that employee out of the childcare scheme.

Last chance to pay Class 2 NIC

The two classes of national insurance (NIC) payable by the self-employed will be merged into one class from 6 April 2019. The flat rate Class 2 NIC will disappear and all NIC will be payable based on the profits made in the year.

However, it is currently Class 2, payable at only £2.95 per week, which provides an entitlement to the state pension and other benefits. If your self-employed profits are below the small earnings threshold (£6,205 for 2018-19), you are not required to pay any NIC, but you may

choose to pay Class 2 NIC voluntarily to maintain your »

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» contribution record for state benefits.

Paying Class 2 NIC is beneficial if you don't currently have 35 full years of contributions, which are needed to receive the full state retirement pension. You can pay Class 3 NIC voluntarily, but that costs £14.65 per week instead of £2.95. Paying Class 2 rather than Class 3 NIC would thus save you £608.40 for 2018-19.

Similar savings may be made for up to six earlier tax years in which you have gaps in your contribution record, if you did make a small amount of self-employed profits in the year.

IR35 can still bite

If you work on projects for larger businesses through your own personal service company (PSC), you may pay less tax and NIC than would be paid overall if you were an employee of those businesses.

The IR35 tax avoidance rules came into effect in April 2000, to prevent individuals from playing the system and paying less tax by working through their own PSC, when in reality they should be taxed as employees.

Recently there has been a rash of IR35 cases heard at the tax tribunals. HMRC won one concerning a TV presenter, but in three other cases the taxpayers were successful.

If you provide services through your own PSC, and don't want to pay more tax than you have to,

make sure you retain evidence of your working arrangements to support as many of these points as possible:

- You can refuse to accept the contract and terminate it on your terms
- Your customer is under no obligation to provide you with work
- You have the right to send a substitute to work in your place
- You can hire others to help you with the task
- You have control over how, where or when you perform the tasks
- You are treated differently from your customer's employees
- You provide at least some of your own equipment
- You take on financial risk, by (say) having to correct work in your own time
- You can work for other customers concurrently
- You and your customer do not intend to form an employer-employee relationship.

There are proposed changes to the IR35 rules from April 2019, which may make it more difficult to prove you are an independent contractor. Contracts for public sector bodies are already subject to different rules.

When is SMP due?

Statutory maternity pay (SMP) must be paid to a pregnant employee who has been continuously employed by the employer for at least 26 weeks, up to the week before the 14th week before the week in which the birth is expected.

There is no rule to say that the employee must be paid at a minimum rate for the entire 26 week period. In a recent case an office junior who worked unpaid on a work-experience trial at the beginning of the 26-week period was considered to be an employee for the entire period for SMP purposes. Even though she hadn't signed an employment contract, she was paid expenses of £15 per week and was included on the payroll with nil pay.

A second condition of SMP is that the employee must give her

employer notice of her pregnancy. This is normally done on form MAT B1; however, notice for pregnancy may be given to the employer verbally.

Electric vehicles

The government is sending out mixed tax messages about electric vehicles. This is what you need to know as an employer.

An employee provided with an electric company car (zero CO_2 emissions) is taxed on 13% of its list price in 2018-19 and 16% of list price in 2019-20. But from April 2020, the taxable benefit will reduce to just 2% of the vehicle's list price. So if you want to provide electric cars to your employees, wait until 2020. »

» The taxable benefit for using an electric van for private journeys is £1,340 per year, which is still a bargain compared to the benefit for an electric company car. However, all company vans will attract the same tax charge from April 2021.

If you permit employees to charge their company-provided electric vehicles at work for no payment, the drivers are not taxed on that free 'fuel', because electricity is not defined as fuel for the car benefit regulations.

But if your employees charge their own electric vehicles at work, the cost of the free electricity used is theoretically a taxable benefit. This anomaly should be removed retrospectively from April 2018, so that charging an electric vehicle at work does not create a taxable benefit for any employee.

If your business installs charging points for electric vehicles between 23 November 2016 and 31 March 2019, it can claim a 100% capital allowance for those costs.

Repay the value of benefits

Directors sometimes borrow assets or money from their company, intending to repay or make good the cost to the company so that a benefit in kind tax charge doesn't apply. For benefits provided in the year to 5 April 2018, the company must be repaid by 6 July 2018 to avoid a tax charge.

The benefits which are affected are: non-cash vouchers, cars, vans, fuel for cars or vans, accommodation, credit tokens, and a catch-all for benefits treated as earnings. Interest payable on loans is not covered by the new rules.

A loan advanced to an employee or director doesn't create a tax charge for the individual (but the company may have tax to pay) if the amount outstanding at any point in the tax year doesn't exceed £10,000.

If a greater amount is borrowed, the tax charge can be avoided if the employee is required to pay interest on the loan at a rate equal to or greater than the official rate (2.5% for 2017-18).

This interest must actually be paid to the company, not just accrued in the accounts. It makes sense to pay any interest due before 6 July 2018, so that an accurate P11D can be completed and submitted by that date.

Share scheme reporting

If your company runs a share scheme for your employees, you must submit an online annual report to HMRC about the scheme's actions in 2017-18, by 6 July 2018. We can help you with this once the share scheme has been registered.

Be careful not to re-register an existing share scheme by clicking on the wrong button, as duplicated schemes will generate unnecessary penalties. There are automatic £100 penalties if the annual report is late, a further £300 if it is three months late and then another £300 if it is six months late.

If nothing has happened during the year, a nil report must be submitted. If the scheme was closed during the year, an annual report is still required for that year. Enterprise management incentive schemes may have to report during the year that options have been granted, as this must be done with 92 days of the date of the grant.

The annual return must be submitted as a spreadsheet using one of HMRC's templates which should not be altered in any way. There are different templates for each type of tax-advantaged (formerly known as 'approved') share schemes.

If the share scheme is not tax-advantaged, it doesn't have to be registered with HMRC until there is

a reportable event. This covers situations where employees are given shares or share options outside a formally established share scheme.

It can take up to ten days for HMRC to approve the share scheme registration and issue a scheme reference number, which is needed to submit the annual report. Don't leave dealing with the share scheme until the last few days before the deadline.

Late filing penalty – don't panic

If HMRC sends you a late filing penalty, there is a more than a one in three chance that it is wrong and you can get it cancelled. A freedom of information request has found that HMRC cancels more than a third of the penalties it issues, because (it claims) the taxpayer had a reasonable excuse. But a high proportion of the late filing penalties will have been issued incorrectly as the tax return was actually submitted on time.

We expect a large number of incorrect late filing penalties to be issued for last year's tax returns as lots of paper returns were submitted after the paper filing deadline of 31 October 2017. This was necessary because the electronic route was blocked by HMRC's computer, which couldn't cope with 'unusual' combinations of income and allowances for 2016-17.

Taxpayers who were forced to submit 'late' paper returns will have a reasonable excuse, but that has to be claimed, either with the return or by appealing against the automatic penalty.

We can help you submit an appeal against any late filing penalty you receive from HMRC.

New rules for termination payments

Where an employee's contract is terminated on or after 6 April 2018, the rules for working out how much of their pay-off is tax-free are quite different from what they have been. Payments in lieu of notice are taxable, as are payments which are classified as post-employment notice pay (PENP). Amounts paid for foreign service are also taxable, except for seafarers.

The PENP must take into account the value of all benefits provided to the employee, including benefits received through a salary sacrifice scheme. The employer must calculate the value of the PENP using a formula provided by HMRC; we can help you with that.

After deducting the PENP from the total termination payment, any remaining balance may be paid free of tax and national insurance contributions if it lies within the £30,000 limit.

These new rules are certainly not simple to apply; please ask us for assistance.

Prepare to digitise VAT

HMRC is pushing ahead with its plans for Making Tax Digital (MTD) for businesses, although some changes concerning non-business income have been put on hold. The first tax returns to be converted to the MTD regime will be VAT returns due for quarters that start on or after 1 April 2019.

If your business is VAT-registered because your annual turnover is at least £85,000, you will be required to submit VAT returns using MTD-compliant software. If you registered for VAT voluntarily and your turnover is still below £85,000, you will be able to submit VAT returns as you do now, either by using accounting software or via the online form.

MTD-compliant software is capable of transferring data to and from HMRC via an application program interface (API). A spreadsheet on its own can't qualify as MTD-compliant, but if it is used with an API add-on (so-called bridging software), it may comply.

If you use accounting software, your first step in preparing for MTD for VAT should be to contact your accounting software provider to ask when they will issue an MTD-compliant upgrade. HMRC will not provide free software for businesses to comply with the MTD regime.

If you currently keep all your VAT records on spreadsheets and/or paper we need to talk about how you can digitise your systems over the next nine months. We can continue to submit your VAT return on your behalf, but we will need to receive the VAT information from you in a digital fashion (such as on a memory stick) or downloaded from cloud-based accounting software.

It will be possible to claim an exemption from MTD for VAT, based on disability, remoteness from internet connection or religious grounds. However, HMRC must grant an exemption: it won't be given automatically.