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TAX MATTERS

ICAEW CHARTERED ACCOUNTANTS

Minimum wage

A reminder that minimum wage rates changed on 1 April 2024.

The new hourly rates are: £11.44 for workers aged 21 and over (this rate is referred to as the National Living Wage); £8.60 for those aged 18 to 20; £6.40 for those under 18 and over school leaving age. This is a major jump for those aged 21 and 22, who fall into the higher National Living Wage category for the first time. The new apprentice rate is £6.40 and the daily accommodation offset is now £9.99.

Employers continue to be named as part of the government's minimum wage enforcement activity. Of the 524 named in February 2024, 82 had made errors over payment to apprentices. It should be remembered that the £6.40 apprentice rate is now the appropriate rate to use when paying apprentices aged under 19, as well as those aged 19 or over who are in the first year of their apprenticeship.

Where an apprentice is aged 19 and over, **and** has also finished the first year of their apprenticeship, they become entitled to age-related minimum wage. So, for example, an apprentice who is 21, and has finished year one of their apprenticeship, would now be entitled to the minimum wage hourly rate of £11.44.

Another prime problem area is making deductions which take payment below minimum wage. 183 employers were named for errors over deductions for items such as food and meals; travel; uniform; childcare and salary sacrifice schemes. Incorrectly calculating working time was also high on the list of problem areas.

National Insurance: where are we now?

Spring Budget 2024 announced further cuts to National Insurance contributions (NICs) taking effect from the start of the tax year, 6 April 2024.

It's the second cut announced, and impacts employees — including company directors — and the self-employed. We outline the effects here.

First of all, there's no change for employers. They continue to pay Class 1 secondary NICs at 13.8%. Commentators have suggested that this is likely to continue to push employers towards engaging workers who don't fall into the category of 'employee'.

For employees, the main rate of Class 1 NICs falls to 8% from 10% from 6 April 2024, for earnings between £12,570 and £50,270. The 2% charge for employees on earnings above the upper earnings limit continues to apply. In summary, the position for Class 1 NICs is as follows:

- 12% to 5 January 2024
- 10% from 6 January 2024 to 5 April 2024
- 8% from 6 April 2024.

For company directors, the NICs position after the first round of cuts announced in the Autumn Statement 2023, became slightly more complicated because their contributions are calculated on an annual basis. This meant that for 2023/24, director liability was at a blended annualised rate of 11.5%. Fortunately, the Spring Budget change doesn't create this issue, and directors' NICs from 6 April 2024 are 8%, as outlined above.

The change does bring company directors more to think about, though, when it comes to remuneration strategy. The latest cut to NICs makes paying a bonus less expensive, for example. Crunching the numbers in your specific circumstances becomes all the more important.

The NICs cut also impacts the self-employed. The drop in Class 4 NICs, from 9% to 8%, set out in the Autumn Statement 2023, was already due to take effect from 6 April 2024. As a result of the Spring Budget, the rate becomes 6%, rather than 8%, from this date. There is also a 2% charge on earnings above the upper profits limit (£50,270).

In addition, from 6 April 2024, there is no longer a requirement to pay Class 2 NICs, though it's still possible to make voluntary Class 2 contributions. This option means those with profits less than what's called the small profits threshold of £6,725, can build entitlement to contributory benefits, including State Pension.

The effect of a cut in National Insurance is felt throughout the UK, and so can have particular impact for Scottish taxpayers, for whom the higher rate threshold is reached at £43,662 of net income, rather than £50,270, as in the rest of the UK.

As always, we are on hand to provide any further advice needed.

Inside this issue

BUDGET SURPRISES

If they weren't exactly rabbits out of the hat, Spring Budget 2024 still sprang its share of surprises.

VAT registration limit

Having been frozen at £85,000 since 2017, the VAT registration threshold wasn't expected to change until at least March 2026. The Chancellor decided otherwise.

With effect from 1 April 2024, the VAT registration threshold has increased to £90,000. Also with effect from 1 April 2024, the threshold for taxable turnover determining whether you can apply for deregistration, has increased from £83,000 to £88,000. For Northern Ireland, the registration and deregistration thresholds for EU acquisitions increased from £85,000 to £90,000, effective from the same date.

In business terms, the VAT registration threshold can be a cliff-edge, especially for predominantly customer-facing businesses, like coffee shops and sandwich outlets. Business performance and profitability can feel comfortable where turnover is just below the VAT registration threshold, but take the step beyond, into the VAT regime, and viability can change considerably.

We are more than happy to help you assess the impact on your business of registration or deregistration — or indeed, any aspect of the VAT rules. If you have any queries, please do get in touch.

High Income Child Benefit Charge

The Budget also brings change to the High Income Child Benefit Charge (HICBC).

The charge has attracted considerable criticism over the years. Two key issues are the relatively low level of income at which it kicks in, and HMRC's poor track record when it comes to communicating liability to pay the charge. It is still not widely appreciated that it is the responsibility of the higher earner to pay the charge, even if they are not the one making the Child Benefit claim.

Until 6 April 2024, the rules were that HICBC applied where one of a couple received Child Benefit, and either one or both partners had adjusted net income over £50,000. The charge then clawed Child Benefit back at a rate of 1% for every £100 of income between £50,000 and £60,000. By the time income was £60,000, any financial benefit in claiming was lost.

So what's changing? From 6 April 2024, the threshold at which HICBC starts to apply changes. It becomes £60,000, rather than £50,000; and the taper now runs to £80,000, rather than £60,000. The change means that HICBC is now charged at 1% for every £200 of income above £60,000, and the full charge does not apply until income exceeds £80,000.

This means many people who have previously opted out of receiving Child Benefit payment, may now want to reconsider their position.

Claims for Child Benefit can now be made in the HMRC app, or online, by post or by phone. New claims are automatically backdated for three months, or the date of the child's birth, if later. If you make a new Child Benefit claim on or after 6 April 2024, any backdated payments will fall under the new 2024/25 rules, with the new income threshold of £60,000 applying. If, having previously had a Child Benefit claim and opted out of actually getting the Child Benefit payments, you now decide to opt back in, you can choose when to start payments. If payments restarted before 6 April 2024, you may be liable to pay the HICBC for 2023/24: but if payments restart from 6 April 2024, the new limits apply. If there is a liability to HICBC for 2024/25, you or your partner should file and pay any charge via self assessment by 31 January 2026.

Looking to the future, the government says it will move towards assessing eligibility according to household income, rather than individual income. This, however, is ambitious in terms of data collection, and change is not expected before at least April 2026. There might also be concerns that it goes against the principle of independent taxation.

The HICBC is still tricky to get right, and we are always happy to help.

HMRC eyes potentially underdeclared dividend income

HMRC is using its data analytic powers to contact taxpayers where it thinks there's a chance that income has been overlooked.

What it's interested in is income from distributions or dividends. It has been looking at company accounts, and where it has identified a large drop in the profit and loss account reserves, which might suggest payment of a distribution or dividend, it has been writing to taxpayers to ask them to check that any such income has been declared on their self assessment tax returns. It does not necessarily follow that tax is owing in such cases.

It may be, for example, that any such dividend or distribution was covered by the personal allowance or Dividend Allowance.

It is, however, always important to take notice of correspondence of this type from HMRC, and act within the timescale indicated. This letter, for instance, advises that failure to respond may open the door to a compliance check by HMRC, with the potential for higher levels of penalties for any non compliance.

What employers need to know

In England, Scotland and Wales, new rules impact the following areas:

Holiday pay and entitlement: irregular hours and part-year workers

Almost everyone classed as a 'worker' — a definition going wider than just employees — is legally entitled to 5.6 weeks' paid holiday each year. This includes workers with irregular hours (such as zero-hours contracts) and part-year workers (such as those only working in term time).

For leave years beginning on or after 1 April 2024, new rules apply to these workers, and the government has provided a definition of 'irregular hours' and 'part-year' to help employers assess which workers are impacted. Points to note are:

- An accrual method to calculate statutory holiday entitlement for these workers: this is calculated as 12.07% of actual hours worked in a pay period. The 12.07% figure is based on the statutory minimum holiday entitlement, but workers may be entitled to more than the minimum, depending on their contract. Annual leave entitlement is capped at 28 days.
- A method to work out how much leave such workers have accrued when they take maternity or family related leave, or are off sick.
- The option for employers to use rolled-up holiday pay (RHP) to calculate holiday pay for these workers. This means employers can choose whether to use RHP, or the pre-existing 52-week reference period method.
  The use of RHP isn't something workers can request: it is at the employer's discretion, and involves including an additional amount with every payslip to cover holiday pay, rather than paying holiday pay when the worker takes annual leave. Note that RHP is in addition to the worker's normal payment, which should be at or above minimum wage. RHP for irregular hour and part-year workers should be calculated at 12.07% of total pay in a pay period. Payments of RHP should be clearly marked as separate items on each payslip.

Paternity Leave and Pay, and other family-leave issues

Changes to Paternity Leave and Pay took effect from 6 April 2024, allowing fathers and partners to take leave in non-consecutive blocks, rather than in one block. Leave and pay can now be taken at any point in the first year after the birth or adoption of the child, and a shorter period of notice is required (four weeks) before leave is taken. Note, also, new rules come in which extend redundancy protection for pregnant employees and those returning from family-related leave.

Carer's leave

A new right to carer's leave took effect from 6 April 2024. It's a day one employment right, and means any employee can take up to one week of unpaid leave, every 12 months, to give, or arrange care for a dependant with a long-term care need. Maximum entitlement is one week in the 12-month period: it is not per dependant. Leave isn't restricted to caring for family members and can be used for anyone reliant on the employee for care. Employees should request leave in advance, but do not have to do so in writing. No evidence of care needs has to be supplied to the employer.

Right to request flexible working

The right to ask for flexible working as a day one right came into force on 6 April 2024. Having 26 weeks' continuous service before making a request is no longer needed. It is still only a right to request, not a right to receive, however. Employers must now respond within two months, rather than three. A new Code of Practice, with guidance for employers, has been published by Acas, the arbitration and conciliation service.

Note: none of these changes apply in Northern Ireland.

TRADE AND CUSTOMS: COMMODITY CODES

A figure of Captain America (think Marvel comic books), the Tin Man, some Norse gods and Grey Worm from 'Game of Thrones' all came before the tax tribunal recently.

It was a case about commodity codes, and the dispute turned on whether they were dolls representing human beings; non-human toys; toys in sets — or, possibly, statuettes. Then there were minor complications like fangs, and animal ears. Did they tip the balance in favour of a non-human classification?

If your business imports goods from abroad, you won't need any reminder of the importance — or the difficulties — of getting customs classifications right. This was exactly where one business, importing licensed collectible toys and figurines, ran into problems with HMRC. In a dispute which pre-dated Brexit, it had applied a zero rate for import duty, whereas in most instances, HMRC wanted to reclassify using a 4.7% code.

For the record, the judge decided that the figure of Grey Worm 'clearly represents only a human being but we considered it was not classifiable as a Doll as it is affixed to a non-removeable base. The . . . figure is very detailed and we have concluded that its ornamental value outweighs its recreational value and it should be classified according to its constituent parts (plastic) to 3926 40 Statuette with a duty rate of 6.5%.'

Commodity codes are clearly not child's play: for assistance, don't hesitate to get in touch.

CAPITAL GAINS TAX - IN THE NEWS

There continue to be significant changes to the already complex Capital Gains Tax (CGT) rules.

Capital Gains Tax explained

CGT applies where you dispose of particular capital assets at a profit. The rates charged depend on your level of income and the type of disposal, with gains from disposals of residential property being charged at higher rates.

Reliefs and exemptions: Key CGT reliefs are Business Asset Disposal Relief (previously known as Entrepreneurs' Relief) and Private Residence Relief (PRR). PRR takes the disposal of the main residence out of CGT for most people. There is also an annual exemption.

Rates: CGT is charged at 10% on gains (including any held over gains coming into charge) where your net total taxable gains, plus income, fall below the Income Tax basic rate band threshold. Broadly, gains or any part of them, above the basic rate band are charged at 20%. For gains on disposal of residential property, the position to 5 April 2024 meant higher rate taxpayers paid CGT at 28%, and basic rate taxpayers at 18%.

Budget surprise for top rate of CGT: In an unexpected move, intended to prime transactions in the property market, Spring Budget 2024 announced a cut to the top rate of CGT on disposals of residential property. As a result, the higher rate falls to 24% from 28% from 6 April 2024. The 18% rate remains unchanged.

Reduction in annual exemption: The annual exemption has been cut in stages from £12,300, in a move announced at Autumn Statement 2022. From 6 April 2024, for individuals and personal representatives, it is £3,000, and £1,500 for most trustees, and is now considered to be fixed at this level. Overall, the reduction means that more trusts and individuals will be brought within scope of CGT for the first time. It also makes it increasingly important to maximise the potential of what is still available.

With an annual exemption each, couples should plan to utilise both exemptions as far as possible. Where, for example, there are assets to dispose of, and one spouse is a higher rate taxpayer, and the other has yet to make full use of their basic rate band, there may be the possibility of transferring the assets between them, on a no gain, no loss basis. The lower rate taxpayer can then make the disposal for CGT purposes. This gives the potential to access the 10% rate band, rather than the 20% rate.

To make sure that arrangements are likely to achieve the desired result, do please discuss them with us beforehand. It is an area that needs considerable care, and it is important that such transfers are outright and unconditional.

Letters from HMRC: HMRC sometimes issues what are called one-to-many letters when it thinks particular types of income or gains are slipping through the net. This year, for example, HMRC has done so where it looks as if information on the disposal of shares has been left off the tax return. It's not the case, though, that everyone getting the letter will have a CGT liability. It might be, for instance, that total gains are less than the annual exemption.

What does HMRC want to know about? HMRC's letter campaign suggests some public uncertainty about the need to tell HMRC about sales and gifts of assets, particularly personal belongings.

CGT applies to most valuable personal possessions, from furniture and jewellery, to works of art and shares (unless within an ISA). Even personalised car number plates come under HMRC's watchful eye. Here value stems from the right to use a particular combination of numbers and letters (an intangible asset), with any gain arising on the disposal of a registration number treated as a chargeable gain. The physical number plate on the other hand, is considered to be a chattel, and likely to be of negligible value.

It's also important to be aware of the rules on cryptoassets. For most people, buying and disposing of cryptoassets is likely to fall within scope of CGT, and from 2024/25, the self assessment tax return will specifically ask for information on income and gains from crypto transactions.

The rules on calculating gains (and losses), reporting to HMRC, and payment of tax, are complex. Separate rules apply to disposals of residential property, for example, especially as regards timescale. The position for non-residents also needs separate treatment. We should be pleased to provide more information.

AI generates cocktail of fake cases against HMRC

And finally, a case at the tax tribunal where HMRC sought penalties for a taxpayer's failure to notify liability to CGT on the disposal of a residential property.

The property had been let out to tenants and the taxpayer held that they had a reasonable excuse for not notifying HMRC. During the hearing, it emerged that they had — unknowingly — based their argument on fake cases generated by an AI system like ChatGPT. This had picked up frequently-occurring surnames from past tribunal cases, frequently-occurring phrases, and created a cocktail blend of different first names, different dates and different verdicts.

The judge noted that this appeared to be an instance of 'hallucination', where an AI system produces 'highly plausible but incorrect results'. Unsurprisingly, HMRC won the case.

We are always here to provide the correct answers to your problems. Please don't hesitate to get in touch.