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financial UPDATE

dte business advisers

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VAT flat rate – is it still worth it?

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Changes to the VAT flat rate scheme mean some small businesses should reassess whether the scheme remains suitable for them.

The flat rate scheme simplifies the way in which small businesses calculate their VAT liability, and it can also result in VAT savings. Under the scheme, VAT is calculated by applying a flat rate percentage to the VAT-inclusive turnover and most input VAT on purchases is ignored. However, from 1 April a flat rate of 16.5% has been introduced for 'limited cost businesses' (LCBs).

Defining your business

With the normal basis, a business would pay VAT of £200 on turnover of £1,000. A flat rate of 16.5% results in a liability of £198 (£1,200 at 16.5%) – virtually the same. For an LCB with even a modest amount of input VAT, the flat rate scheme is no longer attractive.

You are classed as an LCB if the amount of goods you purchase are less than either 2% of your turnover or £1,000 a year (£250 a quarter).

Unfortunately, only goods count and these must be used exclusively for business purposes. There are numerous exclusions e.g. capital expenditure, promotional items, vehicle costs and food or drink for yourself or staff. Goods bought solely to meet the test are also excluded. Stationery, other office supplies, gas and electricity and cleaning products should count.

You have to determine your LCB classification for each quarterly or annual VAT period. So if your turnover or goods purchased fluctuate, you could find yourself alternating between the 16.5% rate and your normal trade percentage. If you are permanently classed as an LCB, you will probably want to leave the flat rate scheme.

Accounting schemes

You can still continue to use the cash accounting and annual accounting schemes, however, even if the flat rate scheme is no longer beneficial for you. This is particularly useful if you give credit to customers, because VAT is not accounted for until you receive payment. You do not have to pay VAT on bad debts.

The advantage of the annual accounting scheme is mainly administrative savings, because only one return is submitted each year. This should help traders avoid incurring penalties for submitting late returns. There are various qualifying conditions, but generally your turnover must not exceed £1.35 million and you must be up to date with your VAT returns and payments. We can help.

Defining employment in the gig economy

The growth of the 'gig' economy has been controversial. Some workers like the flexibility of short-term contracts – giving them the choice of when and where they work. Others need the security of longer-term employment with guaranteed hours.

Employers in some industries value the ability to engage the best person for each project. Others need a stable workforce. Criticism centres largely on two areas: the lack of employment rights for workers, including the minimum wage, and the tax consequences of workers' self-employed status, especially lower national insurance contributions (NICs) and in some cases, avoidance of VAT.

In July, the government announced the setting up of a working party within the Department for Transport to enquire into the pay and working conditions of drivers for the taxi company Uber after claims that some were taking home as little as £2 an hour.

Uber classifies its drivers as self-employed, but last year an employment tribunal decided that two drivers who brought a test case were working as employees within the meaning of employment legislation, once they had logged into the Uber app and were able and willing to accept assignments within their work area. They were therefore entitled to employment rights including paid annual, sick and parental leave, the minimum wage and employers' pension contributions. The decision is under appeal.

Who is a 'worker'?

A review of the impact of modern employment practices, commissioned by the government and led by Matthew Taylor, has recommended a clearer definition of the intermediate employment law category of 'worker' – covering casual, independent relationships – who would enjoy limited employment rights. The review proposed renaming these workers 'dependent contractors'. It advocated greater consistency of tax and national insurance contributions between employment and self-employment over the long term.

Before the review reported, the food delivery firm Deliveroo announced that it would pay sickness and injury benefits to its riders if the law is changed. Deliveroo says that it classifies its riders as self-employed to give them the flexibility to work whenever they want, but that this classification prevents it from offering enhanced employment rights.

Deliveroo has recently changed its agreement with riders by removing a clause prohibiting riders from challenging their employment status at an employment tribunal. The agreement now states that riders do not have to wear branded clothes while working, clarifies that riders can work for other companies and removes riders' obligation to give two weeks' notice to terminate their engagement.

Deliveroo's last three changes are clearly directed at strengthening the company's argument that riders are self-employed.

Determining status

Whether a person is self-employed or an employee for tax purposes is determined by several factors, many of which boil down to the question of whether the individual can be said to be genuinely in business on their own account. Flexible working hours are not necessarily incompatible with being an employee.

Employers who fail to deduct tax and account for NICs on payments to workers generally have no recourse to the workers if HM Revenue & Customs (HMRC) rules that the worker is not self-employed. You can use HMRC's online employment status indicator to check whether an engagement is likely to be an employment or self-employment at "http://www.gov.uk/guidance/check-employment-status-for-tax" www.gov.uk/guidance/check-employment-status-for-tax.

> "Parents can use the scheme to pay for up to £10,000 of annual childcare costs for each child, potentially saving up to £2,000"

Tax-free childcare: how does it work?

The government's new tax-free childcare scheme was finally launched this April – after a legal challenge resulting in a delay of over a year.

Initially it will only apply to parents with a child aged under four on 31 August 2017. However, as soon as one child becomes eligible it may be possible to use the scheme for other children. The scheme will be rolled out throughout 2017 for other parents who can sign up now for an email alert at www.childcarechoices.gov.uk

Who is it for?

Tax-free childcare is available for working parents with children aged under 12 (or under 17 if they are disabled). For every £8 the parent pays in, the government will automatically add a further £2, so parents effectively get basic rate tax relief for childcare costs.

Parents can use the scheme to pay for up to £10,000 of annual childcare costs for each child, potentially saving some £2,000 – and the amounts are doubled for disabled children. If your childcare costs come to more than £10,000, the first £10,000 benefits from tax relief, and you will have to bear the full cost of additional payments.

Setting up an account

The tax-free childcare account must be set up online and can then be used for one-off payments or regular savings. Employers, grandparents, friends or other people can also pay into the account, which can be used to pay for childcare such as nurseries, nannies, childminders and out-of-hours school clubs. Crucially, the childcare provider must also be signed up with the tax-free childcare scheme.

Who qualifies?

Both parents need to be working, with average earnings equal to at least 16 hours at the national minimum/living wage – £120 a week if they are aged 25 or over – although there are certain exceptions to this. Parents are not eligible for tax-free childcare if either partner expects to earn £100,000 or more a year.

Free childcare provision differs across England, Scotland, Wales and Northern Ireland. Tax-free childcare cannot be used at the same time as childcare vouchers from an employer, so you may need to choose between the two schemes.
A parent can still join an employer's childcare voucher scheme up to April 2018, and once a member they will be able to continue for

as long as the scheme is available or until they change jobs. Parents should obviously remain in a voucher scheme, even if they don't qualify for tax-free childcare, for example, because only one parent works or their earnings are not sufficient or they exceed £100,000. The voucher scheme is available for children aged up to 15, not just up to age 12. Tax-free childcare is very helpful for the self-employed, who cannot benefit from childcare vouchers, and others whose employer does not offer them.

Scheme suitability

The help available under the tax-free childcare scheme increases with the number of children, unlike the position with childcare vouchers. So opting for tax-free childcare should be beneficial if you have more than one child and high childcare costs. For other parents, the decision is more complicated and will depend on their tax position and the level of childcare costs. For example, the maximum tax relief available under the childcare voucher scheme is £933 if it is available to just one parent who is taxed at the basic rate. Childcare costs would need to exceed £4,665 before tax-free childcare resulted in more relief – double that if vouchers were available to both parents.

Parents who switch from childcare vouchers to tax-free childcare should make sure they can either receive a refund for unused vouchers, (which is often not possible), or they can use them up.

Advisory fuel rates – petrol nudges downwards

The latest update to HM Revenue & Customs' advisory fuel rates, which can be used until 30 September, see just the single 1p petrol rate decrease from previous rates. These rates can only be used where you either reimburse an employee who has privately purchased fuel for business mileage in a company car, or where an employee is required to repay the cost of company-purchased fuel used for private travel.

The rates are:

Engine size	Petrol	Diesel	LPG
1400cc or less	11p	9p	7p
1401cc to 1600cc	14p	9p	9p
1601cc to 2000cc	14p	11p	9p
Over 2000cc	21p	13p	14p

Who's in significant control?

It is now simple for anyone to find out who really owns and controls a private company, even when shares are held in nominee names.

Unlisted UK companies now have to disclose to Companies House the names of all people who have significant control over their ownership or management, and keep that information up to date. The requirement – in place since 2016 but widened from 26 June 2017 – is intended to improve corporate transparency and prevent money laundering and terrorist financing.

Since 2016, all UK unlisted companies and limited liability partnerships have had to keep a register of persons with significant control (PSCs), and include that information on their annual confirmation statement. Unregistered companies and some listed companies have now been brought into this regime, and so have most Scottish partnerships – although with some modifications.

Also from 26 June 2017, companies and LLPs have to update their PSC register within 14 days of any change, and send that information to Companies House within a further 14 days. Scottish partnerships have to notify information within 14 days of obtaining it as they do not have a PSC register.

Identifying PSCs

Identifying a company's PSCs is often straightforward: it is any individual who owns more than 25% of the shares and/or voting rights, or has the right (under the company's Articles) to appoint or remove the majority of the board of directors. But it also includes any other individual who has the right to exercise (or actually does exercise) significant influence or control over the company.

Some companies have several PSCs; others may have none. For example, a company may have two equal shareholders, whose shares all have voting rights, and there may be no other person who has any control or influence. That company will have two PSCs – the two shareholders. Another company may have five equal shareholders with voting rights that match their shares. In this case none of them would be a PSC unless they have made arrangements to exercise their rights together. The fact that shareholders may be related, e.g. a married couple or mother and daughter, is not relevant if they act independently.

A company that has no PSCs must still keep a PSC register and must declare that fact.

It gets more complicated where a company is owned by another company or by a trust or partnership. The PSC register of a subsidiary will generally show the company that owns the subsidiary's shares, but does not have to look beyond the immediate owner. It is different where a trust or firm satisfies the ownership or control conditions. In such a case the PSC of the company will be any individual with significant influence or control over the activities of that trust or firm.

Registered information

Companies must take all reasonable steps to identify their PSCs and contact them to obtain all the required information. This consists of their name, date of birth, nationality, country of usual residence, service address, usual residential address if different, date they became a PSC of the company and which conditions they meet to be a PSC. It is a criminal offence if PSCs do not provide this information, and most of it will appear on the public register. The main exceptions are date of birth and residential address where a different service address has been given.

Companies must also keep the information up to date, for example if an individual's rights or shareholding changes or if they change their address. Please contact us to help you meet the requirements for your business.

Capital allowance thresholds coming down for cars

You can currently claim a 100% first year allowance if you purchase a new car with CO_2 of 75g/km or less. An 18% writing down allowance is available for cars with CO_2 emissions between 76 and 130g/km, with higher emission cars qualifying for an 8% allowance. The threshold for disallowing a proportion of leasing costs for leased cars is also 130g/km.

These thresholds are to be reduced to 50 and 110g/km from 1 April 2018. On a brighter note, the availability of the 100% first year allowance itself has been extended to 31 March 2021.

It can hurt at the margin

The 45% additional tax rate doesn't kick in until your income exceeds £150,000, but you could find yourself paying an even higher marginal rate of tax at a lower income level.

These high marginal rates occur because of the way various reliefs are withdrawn on a cliff-edge basis or are tapered away.

Take the personal savings allowance. This is £1,000 if you are a basic rate taxpayer, but the allowance is halved if you have just a pound or two of income taxed at the higher rate of tax– losing maybe £100 of tax relief and resulting in a marginal tax rate of anything up to 10,000%.

Complex calculations

The withdrawal of tax credits can also be very expensive. Tax credits are clawed back at a rate of 41% once an income threshold is exceeded and with 40% income tax and NICs at 2%, the effective marginal rate could be as high as 83%. Planning can be quite complicated because of the way the tax credits income disregard works, but pension contributions might turn out to be a very attractive proposition. However, the contributions must be paid before the end of the tax year.

Where your income is between £50,000 and £60,000, you might be in the position of having a child benefit claim tapered away – you actually pay a tax charge, but it comes to the same thing. The marginal rate will depend on the amount of child benefit, which is based on the number of children you have. With three children, child benefit is £2,501 a year. For each £1,000 of income between £50,000 and £60,000, you will lose £250 of benefit. Add in 40% higher rate tax and maybe 2% of NICs, and you have an effective marginal rate of 67%.

If your personal allowance is withdrawn because your income is between £100,000 and £123,000, the effective marginal rate of income tax is 60%. The 60% rate consists of the 40% higher rate plus an additional 20% resulting from the withdrawal of the personal allowance. Again, another 2% of NICs might also come into play.

Time for tax planning

At this level of income, you will probably want to consider some form of tax planning, especially if you have advance knowledge of your income level – which should be the case if you are an employee.

- You might again consider making a pension contribution. If you are aged 55 or over, you could immediately draw the pension and take back 25% tax-free, so the effective net of tax cost for the remaining £750 invested from a £1,000 gross contribution would be just £150.
- You could possibly opt to take additional holiday entitlement or shorter working hours rather than a pay rise.
- You should make the most of tax free investments such as ISAs. To be effective, investments should be in place by the start of the tax year.

> "High marginal rates occur because of the way in which various reliefs are withdrawn or tapered away."

To make matters even worse, at a roughly similar £100,000 income level, you could also find yourself facing the cliff-edge withdrawal of the benefit from tax-free childcare (which is being introduced during 2017). When combined with a 60% marginal tax rate, that promotion or new job might suddenly lose some of its attraction, once you work out the tax implications. Please get in touch if you think you might be affected.

Preventing guilt by association

Businesses that provide advice to clients could be guilty of a criminal offence if they fail to prevent an employee or agent from facilitating or assisting tax evasion by others.

The managers or directors of the business might not have been involved or even aware of the employee's actions to be found guilty under the Criminal Finances Act 2017 (CFA), which received Royal Assent earlier this year.

The provisions of the Act will take effect from 30 September 2017 but many businesses have little awareness of them. Financial services, accounting and legal businesses are the most likely to be affected, but other sectors are also at risk, for example businesses that pay large sums to consultants or engage casual workers and contractors.

The CFA is only concerned with evasion of tax – UK or non-UK – that is deliberate and dishonest, not tax avoidance or mere mistakes. Businesses have a defence if they have implemented reasonable prevention procedures or can show that it would have been unreasonable or unrealistic to expect procedures to have been put in place. Draft guidance from HM Revenue & Customs sets out six principles for businesses to consider:

- Risk assessment.
- Proportionality.
- Top-level commitment by senior management.
- Due diligence.
- Communication (including training).
- Monitoring and review.

A written record of all procedures and risk assessments is essential. Businesses found guilty could face unlimited fines and serious reputational damage, so prepare for the new law now.

Tax calendar 2017

Every month

If the due date for payment falls on a weekend or bank holiday, payment must normally be made by the previous working day.

1 Annual corporation tax due for companies (other than large companies) with year ending nine months and a day previously, e.g. tax due 1 October 2016 for year ending 31 December 2015.

14 Quarterly instalment of corporation tax due for large companies (month depends on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CI contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

Month end

Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

October

5 Deadline to register for self-assessment for 2016/17.

14 Due date for CT61 return for quarter to 30 September 2017.

22 Pay tax and Class 1B NIC on PSAs (19th if not paying electronically).

31 Deadline for 2016/17 tax return if filed on paper.

November

2 Submit employer forms P46 (car) for quarter to 5 October 2017.

December

30 Deadline to submit 2016/17 tax return online to have underpaid PAYE tax collected through the 2018/19 tax code.

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