

PROBATE FEES ON ESTATES

A new stealth tax will increase costs of inheritance

DRIVING AT A LOW-EMISSION FUTURE

More tax increases coming for company cars

STARTING UP FOR LONGER

New conditions affect entrepreneurs looking to realise gains



Financial UPDATE

SPRING 2019

Building for the future

New capital allowances will encourage business investment



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Spring 2019

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The start of 2019 is already proving tumultuous as we enter what could be the final stages of the Brexit process. Meanwhile, the Finance Bill is making its way through parliament, bringing changes from the 2018 Budget into effect. This issue we bring you the changes affecting businesses looking at capital expenditure, employers with company car fleets and Making Tax Digital for VAT. We also look at new requirements for those hoping to claim entrepreneurs' relief. Closer to home we explain the new probate fees affecting many estates, and some lesser-known exceptions to the two-child limit for child tax credits.

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EMPLOYMENT

Boost for employers on the horizon

Changes that should help small- to medium-sized employers were announced in the autumn 2018 Budget and will take effect over the next two tax years.

APPRENTICESHIP LEVY

Changes to how the apprenticeship levy works will come in from April 2019. The levy is paid by employers with an annual pay bill (excluding benefits in kind) of over £3 million – the levy is, in effect, 0.5% of the amount of the pay bill that exceeds £3 million. The payment is held in a levy fund and employers can spend it on various training and assessment costs, primarily for apprentices in their own business.

Many employers fail to spend the full amount of their funds in time, even though they lose any amounts they have not spent within 24 months. From April, employers can transfer up to 25% of their fund to pay for apprenticeship training in businesses in their supply chains. Currently they can spend up to 10% on this.

Smaller employers that don't pay the apprenticeship levy can draw on government funds for 90% of the costs of training and assessing their apprentices, under an arrangement called 'co-investment'. Only certain training costs qualify. Employers pay the training provider and will be able to reclaim the cost apart from the 10% co-investment rate. The 2018 Budget also announced a halving of the co-investment rate to 5%, but the start date remains unclear.

The minimum wage for apprentices will increase from £3.70 to £3.90 from April 2019, alongside increases in other rates of the National Living Wage and National Minimum Wage. One area of difficulty for employers is determining whether people on work experience or internships are workers entitled to the minimum wage. The government has recently updated its guidance on this area.

EMPLOYMENT ALLOWANCE

Looking ahead, the £3,000 national insurance contributions (NICs) employment allowance will be restricted from 2020/21 to employers who had an employer's NICs liability of less than £100,000 in their previous tax year. The allowance means that the first £3,000 of an employer's NICs is nil. The change will target the allowance better on smaller businesses.

It is not available to companies where the director is the only employee above the employer's NIC threshold – £166pw in 2019/20. It is also not generally available to personal service companies or to people who employ domestic workers, such as a nanny.

If you'd like to discuss options for your business, please get in touch.



TAX

Double hit to company cars

There is a steep 3% increase in company car tax percentages across the board from 6 April. There has also been much uncertainty about changes to the way cars' CO₂ emissions will be measured.

Stock/Petmal

The 3% increase will be followed by a further 1% increase and new bandings for ultra-low emission vehicles from 2020/21. Percentage charges for the current year and for 2019/20 are shown in the table opposite.

The maximum percentage charge is capped at 37%. For diesel cars, a 4% surcharge is added to the percentage when calculating the tax charge, subject to the 37% maximum. However, the surcharge does not apply to:

- Diesel hybrids.
- Diesel cars that are certified to the Real Driving Emissions 2 (RDE2) standard, (although only a few, if any, such diesels are likely to be available in the near future).

MEASURING CO₂ EMISSIONS

The change to the way emissions are measured could push up a car's CO₂ emissions by several percentage points, but the government will not be reviewing the impact until this spring.

CO₂ emission figures for company cars will be based on the new worldwide harmonised light vehicle test procedure (WLTP) from April 2020. Until then, cars undergoing the new test will be given a CO₂ emission figure correlated to the old basis of measurement.

The correlated figures are, however, resulting in higher percentages than the previous basis, and this disparity will worsen once true WLTP emission figures are used.

CO ₂ emissions g/km	0-50	51-75	76-94	95 and above
2018/19	13%	16%	19%	20% + 1% per 5g/km over 95g/km
2019/20	16%	19%	22%	23% + 1% per 5g/km over 95g/km

ULTRA-LOW EMISSION VEHICLES

If you are planning to change your company car and want to keep the tax cost to a minimum, then look ahead to the new ultra-low emission regime. From 6 April 2020, the percentage charge will be just 2% for a car with zero emissions, or for a plug-in electric vehicle with CO₂ emissions of 1-50g/km and with an electric range of 130 miles or more. The percentage increases as the electric range reduces:

Electric range	Percentage
70-129 miles	5%
40-69 miles	8%
30-39 miles	12%
Less than 30 miles	14%

The electric range is the maximum distance that can be travelled in pure electric mode without recharging the car's battery or using the combustion engine of the plug-in vehicle (a few hybrids meet the 50g/km emissions limit).

PLANNING

The increasing tax costs make vehicle selection more important than ever.

If you don't want to opt for a plug-in, hybrid versions generally have much lower CO₂ emission rates than petrol or diesel variants.

If you need a petrol or diesel version, consider whether it is worth taking a higher salary and buying the vehicle personally.

If you would like to discuss how you might be affected, please get in touch.

EXAMPLE

For 2019/20, a non-RDE2 standard diesel car with CO₂ emissions of 119g/km will have a percentage charge of

31% (27% + 4%)

EXAMPLE

Jaguar's I-Pace, the company's first all-electric high-performance SUV, has a list price of £64,495. The electric range of 292 miles will mean a company car cost of just £43 a month for a higher rate taxpayer in 2020/21 – much less than most cars that are a fifth or sixth of the price.

BUSINESS

Capital allowances in focus

A new structures and buildings allowance (SBA) announced in the 2018 Budget will address 'a gap in the current capital allowances system'.

The SBA is available for eligible construction costs on qualifying, new, non-residential structures and buildings where all the contracts for the physical construction works are agreed after 28 October 2018. The relief is given at 2% a year on a straight line basis over 50 years. Full details of the SBA have not yet been announced, but its main features are expected to be:

- Only costs of buildings and structures intended for commercial activity qualify and relief is limited to direct construction costs, including demolition and land alteration.
- For mixed-use developments, the SBA will be given on the proportion of costs that relate to the business element.
- The relief will apply to the costs of new conversions or renovations.

- Structures and buildings include offices, retail and wholesale premises, walls, bridges, tunnels, factories, warehouses, hotels and care homes.
- There is no relief on the cost of land or for work spaces in a home.
- Relief is limited to the original cost of construction or renovation regardless of ownership changes. There are no balancing charges or allowances.
- Claims can only be made when a structure or building first comes into use.

Latest on making VAT digital

Making Tax Digital (MTD) for VAT looks set to go ahead, despite repeated calls for postponement. The only concession will be a six-month deferral for businesses with more complicated VAT affairs.



A House of Lords committee strongly recommended putting off the introduction of MTD for at least a year, but so far without any effect.

MTD will be required for most VAT-registered businesses from 1 April 2019, but those who prepare their VAT returns on an annual basis can defer entry until 1 October 2019. The later start date also applies to:

- Trusts.
- Businesses registered in divisions or as part of a VAT group.
- Overseas based traders.
- Larger businesses that are required to make payments on account.

HMRC has now opened up its MTD for VAT pilot scheme to most businesses to help them prepare for the introduction of the scheme. Eligibility is being extended, although partnerships and those trading with the EU will have to wait a bit longer. The pilot will be available to deferred-entry businesses from spring 2019.

With the start date for MTD now just a few months away for most businesses, it is essential for you to check with your software provider that their products will be ready in time. HMRC regularly updates their list of software suppliers, and helpfully splits the list between those with products available now and those whose products are still in development.

“ *Businesses will be able to claim 100% relief on qualifying P&M expenditure of up to £1 million a year – instead of the current limit of £200,000 – in the period 1 January 2019 until 31 December 2020*

£1 million a year – instead of the current limit of £200,000 – in the period 1 January 2019 until 31 December 2020. Many businesses have accounting periods that span the start and end dates, and the limit will then be calculated by apportionment.

For example, for the period 1 July 2018 to 30 June 2019, costs of up to £600,000 will qualify for AIA: six months at £200,000 a year (£100,000) and six months at £1 million a year (£500,000).

No more than £200,000 of expenditure can qualify in the period up to 31 December 2018, so timing is a crucial consideration. The calculation is similar for accounting periods spanning 31 December 2020, and businesses may need to ensure that major expenditure occurs before 1 January 2021.

There are special rules for groups and related companies and the allowance is proportionately increased or reduced for periods of more or less than 12 months. The AIA can be claimed on expenditure that qualifies for main rate or special rate P&M allowances with a few exceptions, the main one being cars.

WRITING DOWN ALLOWANCE CHANGES

The special rate writing-down allowance is the subject of the third main Budget change to capital allowances: from April 2019 the rate will be reduced from 8% to 6%. The special rate applies to expenditure on long-life assets, thermal insulation, integral features in buildings and expenditure incurred on cars with CO₂ emissions of more than 110g/km.

A hybrid rate will apply to expenditure in periods that span 1 April (corporate tax) or 6 April (income tax). There is no change to the 18% allowance on the main P&M expenditure pool.

Please get in touch if your business may be affected by these changes.

- Unclaimed relief cannot be carried forward and will be lost.

Expenditure that qualifies for plant and machinery (P&M) allowances will not qualify for the SBA. It remains important to identify all the costs of integral features of a building that qualify for P&M allowances, which are given at a higher rate than SBA.

AIA GOES UP, BRIEFLY

The 2018 Budget also included a temporary increase to the annual investment allowance (AIA). Businesses will be able to claim 100% relief on qualifying P&M expenditure of up to

Probate fees hike hits larger estates

The government has resurrected its controversial probate banding structure, due to come into effect from April 2019.

The new set of proposed fees are lower than originally planned, especially for higher value estates, but they are still essentially a stealth tax aimed at larger estates.

The new fees for obtaining probate – in England and Wales only – are on a sliding scale, based on the value of an estate before inheritance tax (IHT). Currently, there's a flat fee of only £155 where a solicitor obtains a grant of probate, or £215 if it is obtained by another person; there is no fee for estates of £5,000 or less. There are different systems in Scotland and Northern Ireland.

The new fees can be as much as 0.5% of an estate's value, while the threshold below which no fee is payable will increase to £50,000:

Value of estate	Probate fee
Up to £50,000	No fee
Over £50,000 to £300,000	£250
Over £300,000 to £500,000	£750
Over £500,000 to £1 million	£2,500
Over £1 million to £1.6 million	£4,000
Over £1.6 million to £2 million	£5,000
Over £2 million	£6,000

The same fees will apply for obtaining letters of administration where the deceased person dies without a will. There is no fee where an estate is transferred to a surviving spouse or civil partner if all the assets are jointly owned under joint tenancy. But probate fees are still due even if no IHT is payable, for example because a spouse inherits an estate.

MITIGATING THE FEES

There are two simple ways to mitigate the probate fees, although both may have drawbacks:

- You could make lifetime gifts to reduce the value of the estate. However, you could be left financially vulnerable if the gifts were large enough to make a difference to the liability.
- You can use the joint tenancy survivorship rules to remove property and savings accounts from the value of an estate for the purposes of the probate fee (although there is no IHT saving). Such an approach can be effective for simple estates, for example where everything is left to a surviving spouse or civil partner, but it could cause problems for anything more complicated.

Bringing the value of an estate down from just over to just under £500,000 will be particularly beneficial.

FUNDING HIGHER PROBATE FEES

The changes will add to the burden of having to pay funeral costs and IHT. Banks and building societies will usually release funds up to a certain threshold without requiring a grant of probate, but this will be of little help to those estates that are cash poor but asset rich. Possible ways of funding fees include:

- The executor could pay the fee personally before reclaiming it from the estate.
- The beneficiaries could pay the fees personally.
- The executor could obtain a loan (although this could depend of their credit rating).
- A solicitor or probate company might be willing to pay the fee up front.
- An alternative executor with adequate funds or a better credit rating could be appointed.

You might consider taking out a life assurance policy which is held in trust for the benefit of either the executor or a beneficiary. There are also proposals to provide limited access to the assets of the estate for the sole purpose of paying the probate fee.

You should get expert advice before taking any measures.

TAX

Testing times for entrepreneurs' relief

The qualifying conditions for entrepreneurs' relief (ER) have been tightened up and further changes will take effect in April 2019.

iStock/RichVintage

Entrepreneurs' relief is given to individuals who dispose of all or part of a business, including shares in a personal company. Where a disposal qualifies for relief, up to £10 million of lifetime chargeable gains are taxed at a reduced rate of capital gains tax of 10%.

For disposals from 29 October two new tests have been added to the definition of 'personal company'. They might have the effect of withdrawing ER from investors who hold shares with restricted rights.

NEW CONDITIONS

Investors must now meet five conditions during the whole of the 12 months up to the date of disposal to qualify for ER. They must:

- Be a director or employee of the company.
- Hold at least 5% of the ordinary share capital.
- Hold at least 5% of the voting rights associated with that share capital.
- Be beneficially entitled to 5% of the company's distributable profits.
- Be beneficially entitled to 5% of its assets available for distribution to equity holders in a winding up.

The addition of the last two conditions may affect employees who have acquired shares through share schemes such as enterprise management incentives (EMI), because these shares are often issued with restricted rights. However, a last minute proposed change to the Finance Bill in December has added an alternative of being beneficially entitled to at least 5% of the total disposal proceeds.

The new conditions also apply to sales of business assets that are associated with disposals of shares in personal companies. Participants in a management buyout might also be affected.

TIMING OF DISPOSALS

The other change, which will have a wider impact, is the doubling of the minimum period during which investors must meet the conditions for ER. This change will affect disposals of both unincorporated businesses and shares in personal companies.

Currently investors are required to meet the conditions throughout the 12 months up to the date of disposal – or the last day of trading if the business has ceased. This minimum qualifying period is being increased to two years for disposals that take place after 5 April 2019.

There is an exception: the qualifying period will remain one year for businesses that ceased before 29 October 2018 where the disposal takes place within three years of the cessation. For sales of business assets that are associated with disposals of shares in a personal company, the asset must also have been used in the company's business for two years.

Another revision will benefit individuals who transfer a business to a personal company in exchange for shares. For disposals after 5 April 2019, the period of ownership before the transfer can be taken into account in deciding whether the two-year qualifying period condition is met.

Help is also provided for individual investors whose shareholdings are diluted to below the 5% qualifying threshold as a result of a fundraising issue of new shares after 5 April 2019. Such individuals will be able to choose to be treated as if they had disposed of their shares and had then immediately reacquired them at market value before the dilution. This will give rise to a chargeable gain on which entrepreneurs' relief will be due. They will be able to defer such gains until they have made an actual disposal.

We can help explain how you might be affected.



Class 2 NICs back from the brink

The withdrawal of the proposed abolition of class 2 national insurance contributions (NICs) will make it easier for self-employed people with low earnings to continue to build up their entitlement to the state pension.

The self-employed pay class 2 NICs on their self-employment profits at £2.95 a week. There is no liability if your profits are lower than the small profits threshold (currently £6,205 a year), but you can make a voluntary payment of these NICs.

The proposed abolition would have left low earners having to pay the much higher class 3 voluntary contributions of £15 a week in 2019/20 to add to their NI record. You normally need 35 years of contributions to qualify for the full state pension.

Unlike self-employed people, non-earners and employees with earnings below the lower earnings limit of £116 a week cannot pay class 2 NICs – their only option is to pay class 3. Individuals living and working abroad can pay class 2 NICs subject to conditions.

TAX

Child tax credit – three's a crowd?

There is no entitlement to the child element of child tax credit for a third or later child born on or after 6 April 2017. There are certain exceptions to this restriction, some of which might not be that obvious. What's more, the entitlement rules have recently been relaxed.

There is no restriction to childcare or to the disability element of tax credits. The entitlement to universal credit is on the same basis, with plans to expand the two-child restriction now scrapped.

RECENT RELAXATION

The two-child restriction no longer applies from 28 November 2018 to adopted children or to children who are looked after by friends or family, but not the child's parent or step-parent. This exception does not apply if you adopt a child from abroad. The arrangements for looking after a child can be formal or informal.

TWINS, TRIPLETS OR MORE

If the first child of a multiple birth is either your first or second child, the child element will be paid for all the children born as part of that multiple birth. If you already have two children and a further pregnancy results in a multiple birth, you will receive the child element for all but one of the multiple birth children.

For example, if you already have two children and then have triplets, you will receive the child element for two of the triplets.

GRANDCHILDREN

If you are claiming for children and one of them has a child, you can claim for their child too. The claim continues until your child makes a claim in their own right or you are no longer responsible for your child. This could be because they leave home or leave approved education or training.

Even if your child leaves home, you might be able to continue to claim for your grandchild due to the recent relaxation in the entitlement rules.

NON-CONSENSUAL CONCEPTION

There is an exception for any child that was born as result of rape or other non-consensual conception.

This could include children born within an abusive relationship, unless the claimant continues to live with the other biological parent.

There is no need for a court case or a criminal conviction, but it is necessary to complete a non-consensual conception form with the help of an approved third-party professional.

Let us know if you require guidance.



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