Winter 2017

financial UPDATE

dte business advisers

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If you would like to discuss any issues raised in this newsletter please contact your usual DTE contact. Alternatively, call Natalie Noone on 0161 767 1293 or email marketing@dtegroup.com

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Making the most of fringe benefits

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Changes introduced from April 2017 have largely removed the tax and national insurance contribution (NIC) advantages of many salary sacrifice arrangements.

You and your employees can still benefit, however, if salary sacrifice is based around pension contributions, childcare, low-emission cars or health-related benefits such as cycling to work.

Salary sacrifice is still tax efficient if it's used to finance employer pension contributions. Employees paying higher rates of tax could give up £5,000 of their salary in return for the employer paying an equivalent amount into their pension scheme. This will save employer NICs at the rate of 13.8% (some £690), while the employee will save 40% income tax and 2% NICs (a total of £2,100). This type of arrangement is very tax-effective because employer pension contributions are not a taxable benefit in the employee's hands.

The same principle applies to childcare vouchers. Although these are being replaced by tax-free childcare, employers still have until April 2018 to set up a new scheme and can provide childcare vouchers valued up to £2,916 a year.

Salary sacrifice to finance the purchase of a company car also escapes the new restrictions if the car's CO_2 emissions are 75g/km or less. Although not exempt from tax, the taxable benefit for such cars is fairly modest – at between 9–16% of the car's list price. From April 2020, electric low emission cars will also be a factor. Ultra-low emission cars that can travel a high distance on just electric power will then be taxed very favourably.

Widening the range

There are, of course, tax advantages to providing fringe benefits outside salary sacrifice, although the full cost of provision then falls on the employer. The use of a flexible benefits package means that employees can select those benefits that suit them, and it may be worth using the services of a specialist provider.

Employers are also increasingly focusing on wellness with their benefits packages, with the aim of improving employee health – hopefully leading to reduced absenteeism and greater productivity. Tax-free wellness benefits include healthy food in a company canteen and annual health checks, counselling and eye tests (where an employee is required to use a computer).

If a wellness benefit is not tax free, such as membership of a third party gym or the provision of health monitors, there should still be a saving on employee NICs. Bulk purchase discounts could also mean a reduced cost. As the world of work changes, there are new opportunities to engage employees with the benefits of working with an organisation.

Keeping up with employment changes

The September 2017 Finance Bill contains two measures that will affect both employers and employees.

Termination payments

Originally announced in the 2016 Budget, the new rules will now come into force from 6 April 2018 and introduces a new concept of 'post-employment notice pay' (PENP). This effectively excludes from the £30,000 exemption any amounts that would have been subject to PAYE and national insurance contributions (NICs), if the employment had continued. It will do away with the distinction between contractual and non-contractual payments in lieu of notice (PILONs) and may result in tax on payments of compensation for loss of office.

Also from 6 April 2018, all taxable termination payments will be subject to employer's NICs. So in the above example, Stephen's employer will have to pay NICs on £16,000, whereas under present rules there is no NIC liability. Employers will need to factor in the additional cost when planning termination payments.

In addition, the foreign service relief for termination payments to internationally mobile employees will be abolished and replaced by a more limited exception in certain cases of non-UK employment.

Pension allowance cut

Another measure that has reappeared in the autumn Finance Act is the reduction from £10,000 to £4,000 in the money purchase annual allowance (MPAA) for pension contributions. The normal annual allowance is £40,000. The MPAA is not triggered if the individual only draws the tax-free lump sum, or purchases an annuity.

The change affects individuals who flexibly access their pension benefits but make further contributions to a money-purchase scheme. The reduction to the MPAA has been backdated to 6 April 2017, the original start date before it was dropped from the spring Finance Bill.

If you have exceeded the £4,000 MPAA, you must report the excess on your tax return and it will be subject to tax.

Example

Stephen earns £64,000 and is entitled to three months' notice. His employment is terminated without notice and he is paid £25,000 compensation for loss of employment and £16,000 as a non-contractual sum in lieu of notice.

The PENP is £16,000 – the amount Stephen would have earned if working the notice period.

So of the total payment of £41,000, £16,000 is taxable and £25,000 is covered by the £30,000 exemption. Under current rules, £11,000 would be taxable after deducting the £30,000 exemption from the whole payment.

> "Employers will need to factor in the additional cost when planning termination payments"

Making Tax Digital – timetable extended

The government has extended the timetable for the introduction of Making Tax Digital (MTD) after listening to widespread concerns. Under the new timetable, MTD will initially only be introduced for VAT obligations, with a start date of 1 April 2019. And even then, you will not be required to use MTD if your turnover is below the VAT threshold. The government does not intend to widen the scope of MTD beyond VAT until the system has been shown to work, and not before April 2020 at the earliest.

> You cannot just decide to allocate all the allowable expenses to whichever of you is paying tax at the higher rate so as to minimise the tax.

Are you getting it right on rent?

Between 1.75 and 2 million people in the UK are landlords, the majority of whom are private individuals with just a single rental property.

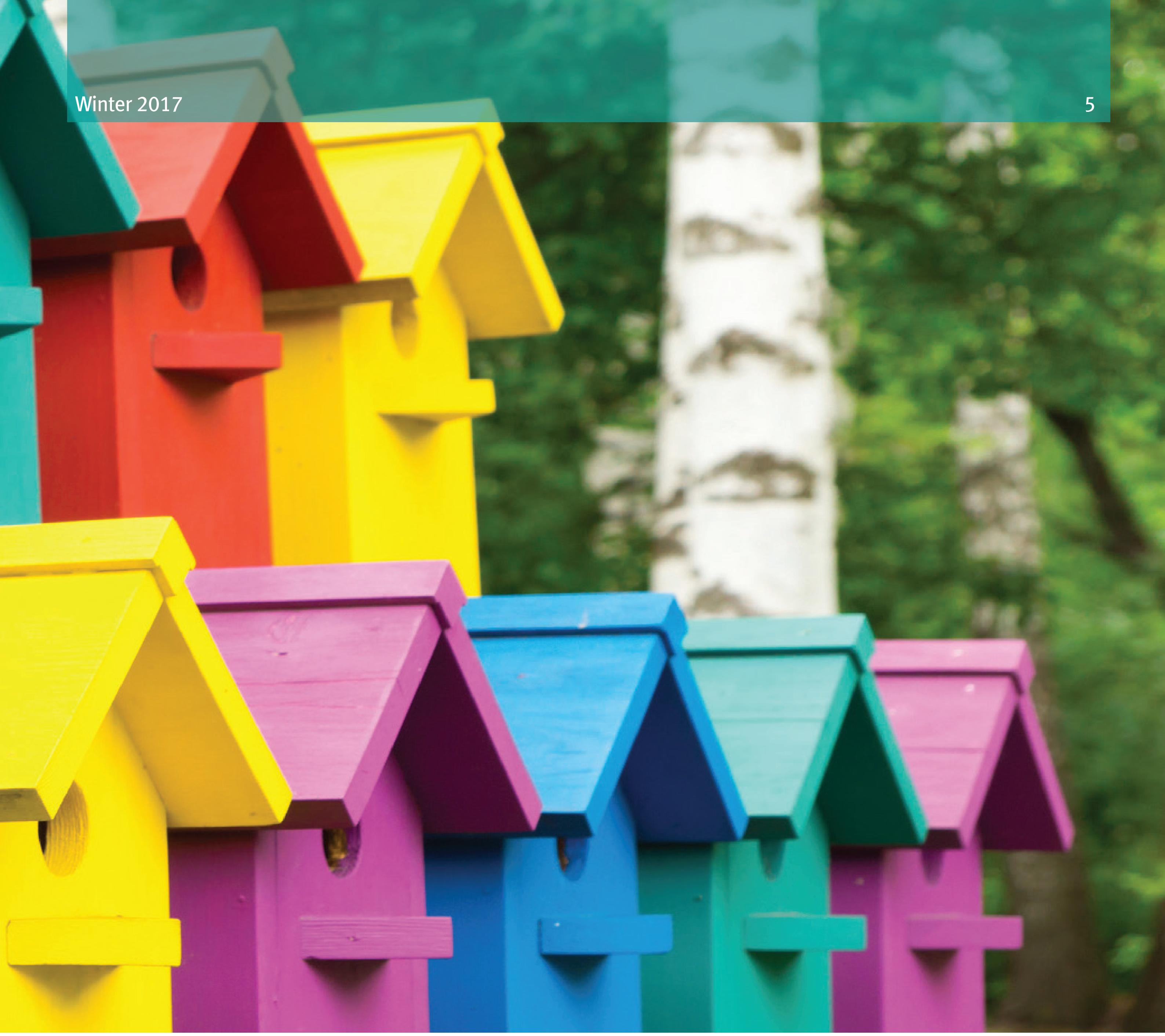
Not surprisingly, many such landlords are unaware of their tax responsibilities relating to their rental income. You might not even think of yourself as a landlord. This could be because you've inherited a property, just rented out a flat to cover your mortgage payments, or moved in with someone and have therefore had to rent out your house. HM Revenue & Customs (HMRC) has been running a let property campaign for several years and has recently updated its examples of errors that landlords often make.

Moving in together: You might have moved in with your partner and decided to rent out your own property rather than selling it. Even though your rental income is only just covering mortgage payments, you may still be making a profit. When calculating rental profit, only the interest element of mortgage payments is an allowable expense, and it is restricted for higher rate taxpayers. The interest element is likely to be a fairly low for a repayment mortgage that is several years old.

Inheriting a property: You may have inherited a property and decided to rent it out. Even if you use a letting agent to find tenants, collect rent and organise repairs, it is still your responsibility to declare the rental profit.

Property bought as an investment: Perhaps you have invested in a property in order to capitalise on increasing property values. If the property is rented out, however, the profit is taxable. Or you could have bought a property jointly with the aim of renovating and then renting out. The rental expenses have to be divided between you properly. You cannot just decide to allocate all the allowable expenses to whichever of you is paying tax at the higher rate so as to minimise the tax.

Divorce: You could have rented out your jointly owned property, with each of you then moving into smaller accommodations. Again, the rental profit will be taxable and will normally be split between you, based on your respective shares in the property. You will both have to declare your share of the profit.



Relocation: Maybe you have had to relocate because of work, renting out your old property. Although there can be an exemption from capital gains tax when relocating, there is no such relief for income tax. Even if you relocate overseas, the rental profit will still be taxable in the UK.

Care home: Perhaps your parents have moved into a residential care home, and, in order to pay the care home fees, have rented out their property. The rent is still taxable even if all the rental profit received is going towards the fees. Care home fees are not an allowable expense.

Property bought for a child at university: If your son or daughter stays rent-free, then there are no tax consequences. However, should rent-paying friends move in with them, the situation changes – even if the arrangement with the flatmates is informal. Tax will be due if the rent is more than the mortgage interest (restricted for higher rate taxpayers) and any other allowable expenses.

If any of these situations apply to you, then please get in touch. It may be necessary to tell HMRC about any undeclared rental profit by making a voluntary disclosure – probably going back for up to six years. This will avoid the risk of higher penalties down the line if HMRC subsequently discovers the omission. Disclosure should also be made if you have not been declaring rental profits from an overseas property or have been letting out a room in your own house for more than the annual exemption of £7,500.

HMRC launches new simple assessments for some taxpayers

HMRC will soon begin issuing simple assessments for the 2016/17 tax year. This new approach to collecting tax avoids the need to bring taxpayers within the self-assessment system. Simple assessments will, however, only be used where a taxpayer's tax affairs are straightforward and HMRC already has all the relevant information. The initial focus will be on taxpayers who have recently reached pension age or where tax underpayments cannot be collected using PAYE coding. You will normally have just 60 days in which to query a simple assessment, with the tax then payable on the normal date – 31 January 2018 for 2016/17.

Wherever you lay your hat? New domicile tax rules

Non-domiciliaries (non-doms) may have been deemed UK domiciled for all tax purposes since 6 April 2017 – possibly without their knowing it – under retrospective changes contained in the September 2017 Finance Bill.

When the measures were dropped from Finance Act 2017, there were calls to delay them until April 2018 to provide certainty for non-doms on their status. That delay has not been granted. Non-doms will now become 'deemed domiciled' and lose the tax benefits of their non-dom status after they have been resident in the UK for at least 15 out of the previous 20 tax years.

A person who is deemed domiciled will generally be subject to income tax, capital gains tax (CGT) and inheritance tax (IHT) on the same basis as someone who is UK domiciled. Until 5 April 2017, deemed domicile status applied only to IHT, and an individual had to be UK resident for 17 of the previous 20 tax years to be deemed UK domiciled.

People who were born in the UK with a UK domicile of origin and who return to the UK after obtaining a domicile of choice elsewhere are also now deemed to be UK domiciled. However, for IHT purposes, an individual will only be deemed domiciled under this rule if they have also been resident in the UK in at least one of the two previous tax years.

Once an individual has been deemed domiciled under the new 15-year rule, they will remain deemed domiciled for income tax and CGT purposes for a further six tax years after they leave the UK. For IHT, deemed domicile status will be lost once an individual has been non-resident for at least four consecutive tax years.

Assets and trusts

Remittance basis taxpayers who become deemed UK domiciled under the 15-year rule will be able to rebase their overseas assets to market value at 5 April 2017. This means that any gains accruing up to that date will not be charged to CGT. Rebasing is on an asset-by-asset basis.

The new rules will also ensure that non-doms who have set up a qualifying trust before becoming deemed domiciled under the 15-year rule will not pay income tax or CGT on income or gains in the trust, as long as they do not receive a benefit from it. However, once they have taken a benefit, CGT will be payable on trust gains, and income tax on family benefits received.

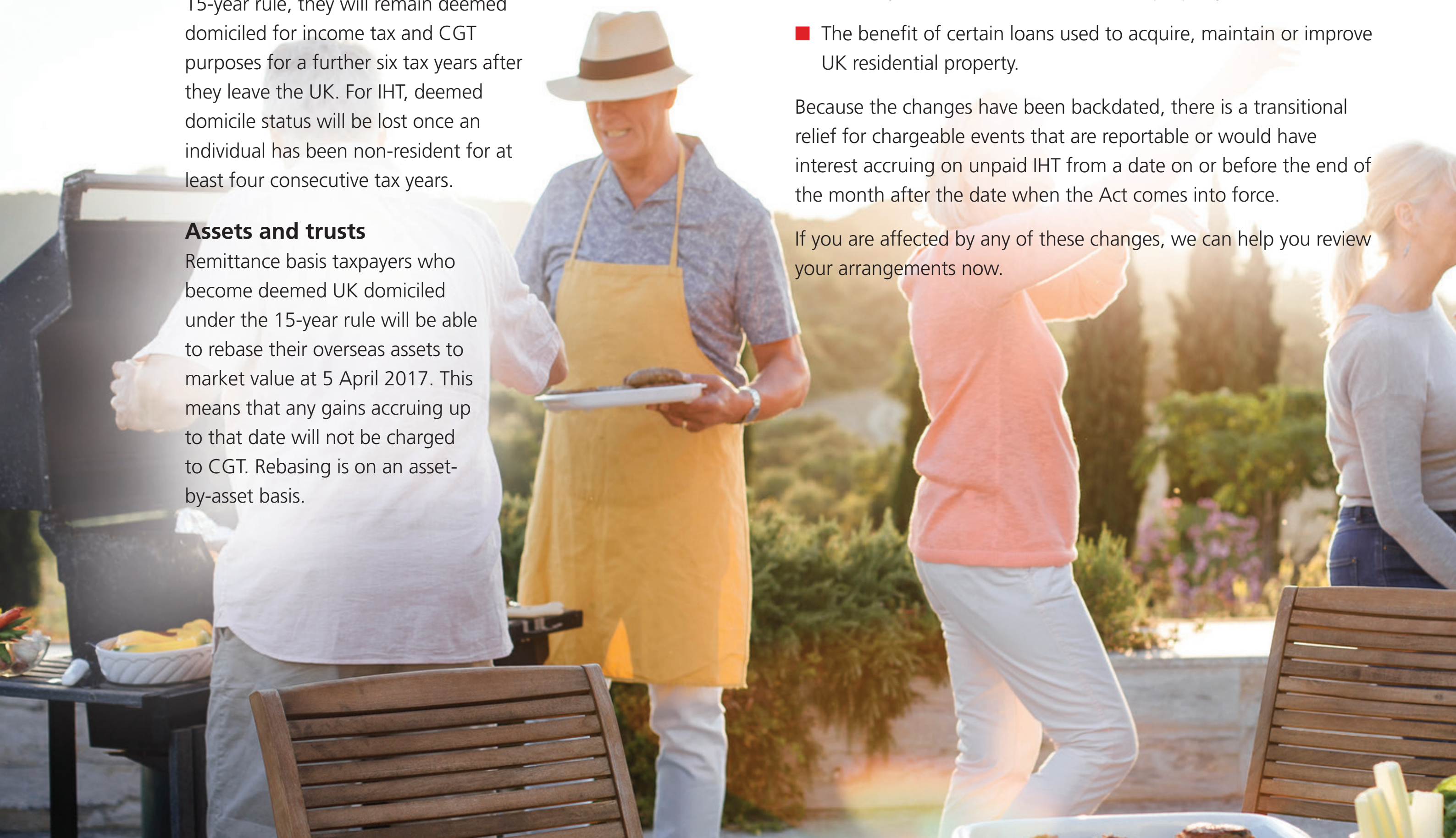
Remittance basis taxpayers will also be able to rearrange their overseas mixed funds to allow them to segregate amounts of income, gains and capital within these funds so that they can remit capital (not liable to tax) ahead of income and gains.

Also from April 2017, IHT will be charged on UK residential property, even when indirectly held by a non-dom through an offshore structure. An interest of less than 5% in the structure is exempt. The new legislation imposes an IHT charge on three categories of property:

- Interests in closely-held companies that directly or indirectly derive their value from UK residential property;
- An interest in a partnership where the value is directly or indirectly attributable to UK residential property;
- The benefit of certain loans used to acquire, maintain or improve UK residential property.

Because the changes have been backdated, there is a transitional relief for chargeable events that are reportable or would have interest accruing on unpaid IHT from a date on or before the end of the month after the date when the Act comes into force.

If you are affected by any of these changes, we can help you review your arrangements now.



Planning for the dividend allowance cut

The dividend tax allowance cut has reappeared in the September 2017 Finance Bill, reducing the level from £5,000 to £2,000 from April 2018 – despite hopes that it would not go ahead.

At present, individuals pay no tax on the first £5,000 of dividends they receive under rules introduced in April 2016. Dividend income above £5,000 is taxed at 7.5% for basic rate taxpayers, 32.5% for higher rate taxpayers and 38.1% for additional rate taxpayers. These rates remain unchanged.

The £3,000 cut in the allowance will leave shareholders who receive more than £2,000 of dividends worse off by up to an annual £225 (basic rate), £975 (higher rate) or £1,143 (additional rate) depending on their income. Those likely to be hardest hit are director/shareholders who take remuneration from their company mainly in the form of dividends. For a couple who share the running of their company, the 'loss' in the figures above is doubled to £450, £1,950 or £2,286 depending on their tax rate.

Dividends remain advantageous compared with salary for basic rate taxpayers because of the lower income tax rate – 7.5% rather than 20% – and the employee's national insurance contributions (NICs) of 12% and employer's NICs of 13.8% on salary or a bonus. However, if you pay tax at the higher or additional rate, the effective rate of tax on dividends is only about 3.6% below that on salary, taking NICs into account as well.

Company owners who have not made full use of the £5,000 dividend allowance in 2017/18 should make up the difference by 5 April 2018, if they are in a position to do so. Remember that a company can only pay a dividend if it has enough reserves to cover the payment.

Offsetting the reduction

Looking further ahead, the expected cut in the rate of corporation tax from 19% to 17% from April 2020 will wholly or partly offset the reduction in the dividend allowance, depending on the amount of dividend paid.

Running a business as a limited company is still generally beneficial from a tax viewpoint compared to operating as a sole trader or partnership. However, the benefit is not as clear-cut as it used to be. The advantage is greater if the owners leave profits in the company, because in most cases the only tax liability is corporation tax rather than 40% or 45% income tax.

But tax is not the only consideration. If you are starting a new business or your business is run as a sole trader or partnership, we can help you decide whether to incorporate, and, if so, when would be the optimum time to do so.

Also adversely affected by the cut in the dividend allowance will be anyone who relies on income from their investment portfolio to supplement their earnings or, in many cases, their pension. If you currently receive more than £2,000 in dividends, you might benefit from switching to investments that give capital growth rather than income.

Example

A company now has £40,000 of pre-tax profits available to pay a dividend to a single shareholder. It can pay a dividend of £32,400 (after 19% corporation tax).

After deducting the dividend allowance of £5,000, and assuming higher rate tax of 32.5%, the shareholder is left with an income of £23,495.

From April 2020, with the same pre-tax profits of £40,000, the company can pay the shareholder a dividend of £33,200 (after 17% corporation tax).

After deducting the dividend allowance of £2,000 and assuming higher rate tax of 32.5%, the shareholder will be left with £23,060. Assuming of course, there are no changes in income tax rates on dividends.

The data protection revolution is on its way

From 25 May 2018, the EU General Data Protection Regulation (GDPR) will replace the Data Protection Act (DPA). Is your business ready?

The GDPR deals with the storage and handling of personal data, extending the scope of data protection and introducing much tougher fines for non-compliance. The UK's decision to leave the EU will not affect the GDPR's introduction.

The GDPR will bring EU data protection law into the 21st century, and could have wide-ranging consequences for small and medium-sized businesses. The GDPR's definition of personal data is more detailed, so, for example, an IP address can be personal data.

One of the biggest changes will be that of consent, with an individual's active agreement required. A record of this consent must be retained. Individuals can withdraw consent at any time and their details must then be permanently erased.

With the introduction of the GDPR only a few months away, you should review your systems now. For some businesses, it may mean a complete change in corporate culture. Fines for non-compliance are up to 4% of turnover or €20 million – whichever is higher.

Tax calendar 2017/18

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 CIS 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.

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.

January 2018

14 Due date for CT61 return for quarter to 31 December 2017.

31 Submit 2016/17 self-assessment tax return online. Pay balance of 2016/17 income tax, Class 2 NIC and CGT plus first payment on account for 2017/18.

February

1 Initial penalty imposed where the 2016/17 tax return has not been filed or has been filed on paper after 31 October 2017.

2 Submit employer forms P46 (car) for quarter to 5 January 2018.

March

2 Last day to pay 2016/17 tax to avoid automatic 5% penalty.

31 Last few days to use any pension, CGT and IHT annual allowances and exemptions and to invest in an ISA in 2017/18.

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