NEW GOVERNMENT TAX PLANS
NIC payment threshold likely to increase

RISING COSTS OF FRAUD
More businesses prey to scams

GOING GREENER IN 2020
Taking your business towards carbon neutrality

dte business advisers

Financial UPDATE

JAN/FEB 2020

Tax planning for year end

Use your allowances or lose them

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In this issue...

February is set to be the start of a new set of negotiations with the EU, and the countdown to the UK's final exit from EU trading terms at the end of December. During that period the new tax year will begin. Make sure you capitalise on the opportunity to minimise your tax bill at the end of March, and look out for the change in CGT payment terms: you may be better off incurring CGT in 2019/20. While we don't know how the forthcoming trade negotiation will pan out, we do have a fair idea of changes to the tax rules for 2020/21. The government's planned increase of the national insurance payment threshold to £9,500 will mean a saving of £120 per employee, and is also good news for those running small businesses. When completing your tax return, watch out for mistakes. HMRC fined a taxpayer for not spotting that the salary reported on their P60 was considerably less than their actual earnings.

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EMPLOYMENT

Countdown to off-payroll rules change

The extension of the public sector off-payroll working rules (known as IR35) to the private sector is still set to go ahead in April 2020, despite the postponed Budget and a call from the Federation of Small Businesses (FSB) for the change to be delayed.

The changes were announced in the 2018 Budget and scheduled for the 2019/20 Finance Bill. The Treasury has remained committed to the reform, with draft legislation published in July 2019. However, in January the government launched a review of the proposed changes to address concerns from businesses and affected individuals about how they will actually work. The review will determine if any further steps can be taken to ensure the smooth and successful implementation of the reforms.

Off-payroll working rules affect workers who provide services through an intermediary – usually their own personal service company. Such workers would have been classed as employees if they had worked directly for the end user of the services. In these circumstances, income tax and employer's and employee's national insurance contributions (NICs) must be paid on an amount deemed to be the worker's employment income.

At the moment, where the end user is a public sector organisation, that organisation is responsible for making a decision about the worker's employment status. From 6 April 2020, medium and large private sector organisations (as defined by the small companies' regime) will also need to determine employment status, as will third sector organisations, such as some charities.

If the worker is deemed an employee, the end user must pass the employment status determination to the organisation that pays the intermediary, which must then account for tax and national insurance contributions to HMRC. The fee-payer might not be the end user, for example, where the engagement is through one or more agencies. The intermediary and worker will also be able to challenge the decision.

DETERMINING STATUS

Determining employment status can be difficult. HMRC offers a 'check employment status for tax' (CEST) tool designed to enable workers and hiring organisations to decide whether an engagement is an employment for tax purposes. The self-help tool is optional and results may depend on precisely how the information is presented. Many advisers consider that CEST is not neutral but skewed towards employment.

Several cases have ended up in the Tax Tribunal. Most recently, HRMC lost a case in November against Helen Fospero, a TV presenter who used a company to supply her services to a range of clients including ITV. Although she was required to perform the services personally and ITV retained editorial control over her programmes – both of which suggested employment – other factors pointed towards self-employment.

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TAX

What's coming in the new government's tax plans?

With the Conservative Party's election victory in December, businesses now have a clearer idea of what tax changes to expect in April 2020.

However, with a likely focus on higher public spending, particularly on the NHS, and with the cost of leaving the EU from the end of January, this is probably not going to be a government of mass tax cuts.

Directors and the self-employed can take comfort in the promise not to raise income tax rates and national insurance contributions (NICs), although their value will be eroded if tax thresholds are not increased in line with inflation. The personal allowance and basic rate threshold are already legislated to remain unchanged for 2020/21. There is also going to be no increase in VAT rates.

EMPLOYEE NICS

The level at which NICs start to be paid will be raised from £8,632 to £9,500 from April 2020, with a possible increase to £12,500 by the end of a five-year parliament (presuming another election at that point). There will be a one-year NICs holiday if you hire someone after they have left the armed forces.

The initial increase to the NIC threshold represents a cost saving of £120 per employee. This will be a significant help to businesses with larger workforces.

A further measure will see the employment allowance increased from £3,000 to £4,000. However, the allowance is not available to one-man band companies or (from April 2020) where employer NICs exceed £100,000 a year.

COMPANIES

It may come as no surprise that the previously announced cut in corporation tax to 17% has been cancelled, with the rate remaining at 19%. The tax credit for research and development (R&D) expenditure for large companies will go up from 12% to 13%, with the definition of R&D revised to include investment in cloud computing and data.

Private sector changes to off-payroll working rules look fairly certain to go ahead from April 2020. This could have a serious impact on your tax position if you work through a personal service company.

BUSINESS PROPERTY

Brick and mortar businesses continue to face challenges:

- Business rates will be reduced, with the government carrying out a fundamental review of the system. The first step will see a further reduction to business rates for retail businesses. A one-third retail discount has already been introduced for 2019/20 and 2020/21
- The rate of structures and buildings allowance will be increased from 2% to 3%. This is not as generous as it might seem, because the allowance is only available for properties constructed since 29 October 2018, and the value of land is excluded.

> *The level at which NICs start to be paid will be raised from £8,632 to £9,500 from April 2020, with a possible increase to £12,500.*

ENTREPRENEURS

Entrepreneurs will be pleased that the Enterprise Investment Scheme and Seed Enterprise Investment Scheme will continue throughout the new parliament, but the promised "review and reform" of entrepreneurs' relief has potentially ominous implications. The existing capital gains tax (CGT) rate of 10% on £10m of qualifying gains is quite generous and may be in the Treasury's sights.

TAX AVOIDANCE

No Budget would be complete without new anti-tax avoidance measures. One Conservative manifesto point that stands out is the creation of a 'beefed-up' anti-tax evasion unit in HMRC that will cover all duties and taxes.

We will update you after the Budget in March.

TAX

Year end tax planning time – use it or lose it

As the end of the 2019/20 tax year approaches, don't forget to use your tax reliefs and allowances that will be lost if not used before 6 April 2020. You should also prepare for tax changes coming next year.

INCOME, SAVINGS AND PENSIONS

Income and gains arising in individual savings accounts (ISAs) are free of tax. You can invest up to £20,000 in ISAs in each tax year, but unused allowance cannot be carried forward. You can invest in one cash ISA, one stocks and shares ISA and one innovative finance ISA in each tax year. If you are aged 18 to 39 you can, within the overall £20,000, also invest up to £4,000 in a lifetime ISA.

There is an annual limit of £40,000 on pension contributions that qualify for tax relief, reduced to £10,000 or £4,000 in certain circumstances. You can carry forward unused annual allowances for up to three years to offset against a contribution of more than the annual limit.

- Tax relief on pension contributions is at least 20%, but may be up to 45% (46% in Scotland). You may be able to maximise the amount of pension contributions that qualify for relief greater than 20% each year.

- People with little or no earnings can contribute up to £2,880 to a personal pension – tax relief of up to £720 is then added to the personal pension by HMRC even if you do not pay tax. You could set up a pension for your partner or children.

Directors and some employees could avoid the highest income tax rates for this tax year, or the next one, by delaying or bringing forward income. If, for example, you expect to receive an annual bonus or dividend around March or April, you could time the payment to fall into the tax year with the lower rate.

If your business is affected by the off-payroll working rules (IR35), you should calculate how much salary to draw before 6 April 2020 to avoid being taxed on a 'deemed payment'. You also need to be aware of changes to the off-payroll working rules from April 2020.

PLANNING FOR COUPLES

Couples may have additional tax-saving opportunities if they can shift income from one to the other:

- You should aim to use both individuals' personal allowance and minimise any higher and additional or top rate tax.

- You can each receive £2,000 of dividends tax free in 2019/20. Reorganising your shareholdings between you may make better use of this limit, similarly the savings income allowance of £1,000 or £500.

- If you are in business, you could pay your partner a salary or employer's contribution to their pension plan.

CAPITAL GAINS

As far as capital gains tax (CGT) is concerned, you should generally aim to use your £12,000 annual exempt amount by making suitable disposals before 6 April 2020.

- Careful timing of disposals before or after year end may result in more of your gains being taxed at 10% rather than 20% (18% instead of 28% for residential property gains).

> *Directors and some employees could avoid the highest income tax rates for this tax year, or the next one, by delaying or bringing forward income.*

- Transferring assets between married couples or civil partners before disposal might save CGT.

CGT is usually paid on 31 January after the end of the tax year in which you make the disposal. For example, you could delay a major sale until after 5 April 2020 to avoid paying tax for 12 months.

NEW PAYMENT TERMS

However, from 6 April 2020, a payment on account of CGT must be made within 30 days of a residential property disposal (where it is not an exempt principal private residence). So CGT will be payable much sooner on such a disposal made early in 2020/21 compared to one during 2019/20.

Procrastinating on year end planning rarely pays – April will be here quicker than you think.

TAX

Beware of honest mistakes

The First-Tier Tribunal has upheld a penalty charged by HMRC for reporting income and tax-deducted figures from an incorrect P60, although accepting that the taxpayer had made an honest mistake.

The error arose when the employer moved their payroll in-house, having previously outsourced the work. This meant a change of PAYE reference.

Due to some confusion regarding the P45 issued by the previous payroll provider, the taxpayer's P60 for 2016/17 omitted earnings and tax deducted for the period April to August 2016.

The correct earnings for 2016/17 were £306,722, but, because of the incorrect P60, the earnings reported on the taxpayer's tax return were understated by £139,117.

Although the taxpayer had queried the P60 figures with his employer, he had been assured they were correct.

PENALTY

Despite the fact that there was no tax underpaid, HMRC issued a penalty notice of £694.15 for a careless inaccuracy. This was not because of the incorrect P60 (the employer's responsibility), but because it was the taxpayer's duty to include all income on their tax return – and this could have easily been established by adding up payslip figures. HMRC therefore did not consider reasonable care had been taken.

Although the circumstances of this case are unusual, it does show the need to double check figures provided to you when preparing your tax return, especially where there is an obvious discrepancy.

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BUSINESS

Relief restriction on corporate capital losses

A reform of the tax regime for corporate capital losses comes into effect from 1 April 2020, restricting relief for capital losses carried forward.

The changes are along similar lines to the rules for carried forward income losses introduced in April 2017. However, there will be no increased flexibility in how capital losses can be used, which means relief will still be given against capital profits only, unlike with the income loss relief changes.

LIMITED RELIEF

At present, a company's capital losses are netted off against capital gains arising in the same accounting period. Any overall chargeable gain is subject to corporation tax. Where losses exceed gains, the net loss may be carried forward and set against capital gains of future periods. Companies in a group can elect to transfer gains or losses to another group company.

The new restriction will apply to capital gains arising from 1 April 2020. Bringing forward capital losses will be limited to 50% of the capital gains of the accounting period. However, companies will have an unrestricted allowance of up to £5m capital or income losses each year, which they must allocate between capital gains and trading and non-trading income. Groups of companies will have one allowance.

The change does not affect the set-off of capital losses against gains of the same period, which will continue to be unrestricted. Unlike income losses, all carried forward capital losses will be subject to the restriction regardless of when they arose.

Transitional rules will apply to accounting periods straddling 1 April 2020. The restriction will not apply to real estate investment trusts (REITs) where the capital losses are due to the property rental business.

The restriction will only affect larger companies and unincorporated associations, because of the £5m deductions allowance. This will mean that companies will no longer be able to fully relieve substantial capital gains by carrying forward large historic losses.

EXAMPLE

The Complex Things company has the following:

Brought forward capital losses	£12m
Brought forward post-1 April 2017 trading losses	£4m
Capital gains of the accounting period	£10m
Capital losses of the same period	£1m
Trading profits	£6m

Complex Things decides to use the entire £5m deductions allowance against capital losses.

Relief for brought forward trading losses is limited to £3m (50% of £6m) as none of the deductions allowance is available.

Capital loss restriction

Net chargeable gains (£10m – £1m)	£9m
Deductions allowance	(£5m)
Relevant capital gains	£4m

The relevant maximum relief for capital losses is then:

50% of relevant capital gains (£4m)	£2m
Plus the deductions allowance	£5m
Maximum relief for brought forward capital losses	£7m

Profits subject to corporation tax

Trading profit (£6m – £3m)	£3m
Chargeable gains (£9m – £7m)	£2m
Total	**£5m**

> *Brought forward capital losses will be limited to 50% of the capital gains of the accounting period. Larger companies and unincorporated associations are affected.*

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BUSINESS

Businesses losing out to fraud and scams

The cost of losses to businesses from fraud and scams reached £682m in 2018/19, according to figures from Action Fraud, the national fraud and cybercrime reporting centre, with warnings of rising levels of the crimes.

Nearly 60,000 businesses reported cases of such losses and HMRC has also warned of increasing instances of fraud in labour supply chains. While larger businesses are more likely to be able to absorb the impact, smaller businesses are at far greater risk of serious financial implications.

The three types of fraud that stand out from the Action Fraud figures are:

ACTION FRAUD	
Employee fraud	£213.7m
Mandate fraud	£99.3m
Plastic cards and online bank accounts	£98.1m

EMPLOYEE FRAUD

Reported losses from employee fraud have increased considerably in the past few years with examples including the misuse of corporate cards, claiming personal items as business expenses and claiming unworked overtime.

You can help to reduce your vulnerability to such abuses by encouraging an environment of loyalty to the firm, where whistle-blowers feel they are able to come forward in confidence without any fear of reprisals. In many cases, staff will have suspicions about or evidence of a colleague's fraudulent behaviour, but feel hesitant in raising concerns.

MANDATE FRAUD

Mandate fraud occurs when an employee is deceived into redirecting a regular payment mandate (such as a direct debit, standing order or bank transfer) to a fraudster's bank account. The regular nature of payments means that losses are likely to be higher than for one-off invoice fraud.

Although generally targeted at larger businesses, smaller businesses are less likely to have taken steps to boost their resilience against fraud. The best defence is to verify requests for amended payments with the organisation or supplier in question by using established contact details.

PLASTIC CARDS AND ONLINE PAYMENTS

There is considerable scope for fraud where debit/credit cards are lost or stolen, if card details are cloned or if online banking details are compromised.

> *Reported losses from employee fraud include misuse of corporate cards, claiming personal items as business expenses and claiming unworked overtime*

Even the fast vanishing cheque can still be used in a scam – such as where a business receives a cheque for too much money and is asked to return the balance electronically.

LABOUR SUPPLY CHAINS

At its most basic, labour supply chain fraud occurs when a business transfers staff and payroll responsibility to a fraudulent payroll company. The fake company will then not pay over the payroll deductions to HMRC. The typical target is a financially struggling business tempted by the opportunity to cut payroll costs. More sophisticated schemes involve co-employment of a workforce and the use of umbrella companies.

If you need help securing your business from fraud, we can point you in the right direction.


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EMPLOYMENT

New bereavement leave from April 2020

Bereaved parents and other primary carers are to receive new employment rights. If they lose a child under 18 years old after 5 April 2020, they will be entitled to up to two weeks' leave, taken as two single weeks or one block of two weeks. This will be paid leave for employees with 26 weeks' continuous service subject to a minimum earnings condition. For others, it will be unpaid. The leave must be taken within 56 weeks of the child's death. Parents will also qualify where a baby is stillborn from 24 weeks of pregnancy.

Primary carers include adopters, foster parents and guardians who have had the child living with them for at least four weeks up to the death and meet some other conditions.

Parents and primary carers will also be entitled to a new statutory bereavement pay, which will be treated as earnings for tax and national insurance.

BUSINESS

Expand green governance for your business

Global giant Ikea recently committed to investing an additional £171m in green energy and forest planting as part of their plan to become carbon neutral within ten years. Your company might not be able to match that, but there are other ways to make your business more environmentally responsible.

The issue of climate change rose to greater prominence in 2019 than ever before. Businesses can expect to come under increasing pressure to address their environmental profile, be it from government, clients and public opinion or employees.

GREEN TRAVEL

For smaller and medium-sized businesses, an obvious starting point is to introduce a green travel strategy for staff. To motivate people to get on board, you can make it fun, for example by offering prizes for cycling to work on a regular basis or getting the best mileage out of an electric company car.

There are a range of options when it comes to greener travel, some of which you may already have in place. The following are neither complicated nor costly to implement:

- Cycling to work can be encouraged by providing employees with tax-free bicycles and safety equipment.
- Offer season ticket loans as an alternative to an employees driving to work.
- Promote car sharing by offering an enhanced mileage allowance per additional passenger.
- Arrange free or discounted travel on public bus services.
- Provide showers and changing facilities for staff who want to walk, jog or cycle to work.

Why not challenge your staff to undertake a carbon-free commute at least once a year? The impact of daily commuting can be cut further if you can encourage flexible working from home.

COMPANY CARS

Changes to company car tax from 6 April 2020 will provide a huge incentive to move to electric or hybrid vehicles. Pick the right car and your company will get a 100% up front deduction against profits, with the employee subject to little or no tax on their company car.

- **100% tax deduction:** Available where CO_2 emissions do not exceed 50 g/km.
- **No company car tax:** For electric and hybrid cars registered from 6 April 2020, with CO_2 emissions between 1 and 50 g/km and with an electric range of 130 miles or more.

EMBEDDING GREEN POLICIES

Consider moving to a greener energy supplier and look at ways of reducing energy use. Take account of ethical, environment and social governance issues around company pension funds.

Where you can, buy green products from your supply chain and engage with suppliers to change their strategies. Could you cut down on using plastics? You can go all the way by purchasing carbon credits to offset the carbon footprint generated by your company and/or your employees' travel.

Green concerns are here to stay, so make 2020 your year of change.

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