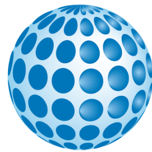
Tax Briefing



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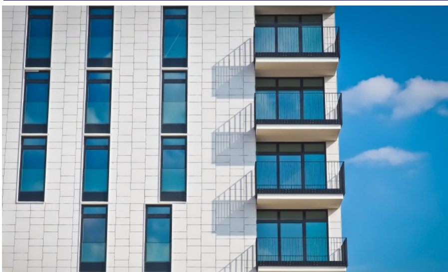
Gains from off-plan purchases



Most people understand that when you sell your main home the profit you make on the sale is exempt from tax. However, for this exemption to apply in full you must generally occupy the residence throughout your period of ownership.

If the property has been acquired before it is fully constructed, the ownership condition will be met for the period before it is inhabited but the occupation condition will not.

This has implications for properties which are purchased 'off-plan'. For capital gains tax purposes the ownership period begins on the day contracts for purchase are agreed and exchanged, not on the day the contract is completed. For an off-plan purchase the contracts may be exchanged many months or years before the property is finished and ready to inhabit.

As HMRC assumes the gain on the sale of the property accrues equally over the period it is owned, a large part of the gain is allocated to the period before the owner can move in.

If this applies to you, we should review your purchase contracts before you sell the property. If the contract contained conditions which effectively included break points in the agreement to purchase, the ownership period may be calculated from a later date, which will reduce your taxable gain.

Pension planning

You are probably too busy running your company to think about your pension, but you should give this some thought before the deadlines overtake you.

Your company can only claim deductions for pension contributions made within the accounting period. If it has a 31 December year end you should now review the level of contributions made on behalf of the directors and senior employees. Do you want to increase contributions to your own pension fund if you have had a good year?

Before you decide, check how much annual allowance you have available for pension contributions in 2018-19. The standard allowance is £40,000 but this is reduced to £4,000 if

you have already flexibly accessed benefits from a defined contribution pension scheme, even if you received those benefits in an earlier year.

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If your income is expected to be £110,000 or more for 2018-19 you need to check whether the total pension contributions paid on your behalf, plus your income, will top £150,000. In this case your annual allowance is tapered down by £1 for every £2 over the £150,000 threshold to a minimum of £10,000. We can help you with this calculation.

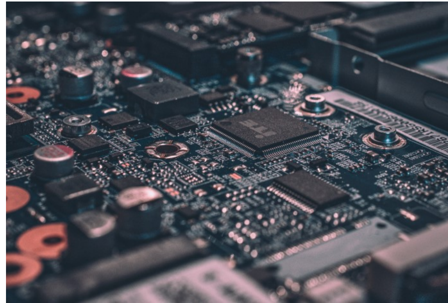
It is worth checking whether any highly paid individuals on your payroll have been automatically re-enrolled into their workplace pension scheme. This should happen every three years on the anniversary of the date the individual was first auto-enrolled.

Even a small contribution made into the workplace pension can cause the individual's annual allowance to be exceeded and they could lose the fixed protection of their pension lifetime allowance.

Making tax digital software

Most VAT registered traders will be required to file their VAT returns using MTD-compliant software for VAT periods beginning on and after 1 April 2019. If your VATable turnover is likely to be over £85,000 for the year to 31 March 2019 it is crucial to understand this software issue.

If you already use accounting software to send your VAT return to HMRC automatically, without a human typing the figures into HMRC's online form, you are probably OK. Check with your software provider when they will upgrade their package to be MTD-compliant.



If you use a spreadsheet or other software to compile the VAT figures you are half way there. There are several low-cost forms of 'bridging software' available that will pull numbers from spreadsheets or certain accounting packages and pump them through an application programme interface (API) into HMRC's system. Job done until at least 2020.

Businesses with entirely paper-based accounting records have a bigger mountain to climb. You do not have to leap straight into a cloud-based accounting package; there are other solutions we can discuss with you.

The second requirement of MTD is to have end-to-end digital accounting records. Many businesses retype figures at some stage of the accounting process, but that will not be permitted for VAT periods beginning on and after 1 April 2020. We have a little over a year to work out how to completely digitise your accounting system.

Let's discuss your options.

Retain your entrepreneurs' relief

Entrepreneurs' relief allows you to pay capital gains tax at ten percent on gains made on the disposal of shares issued by your personal company, or assets used by that company.

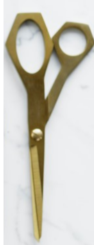
The company must qualify as your personal company for a full 12 months ending on the earlier of the disposal date and the date it ceases to trade. This period will double to 24 months for disposals made after 5 April 2019, so bear this in mind if you are planning to sell next year.

For the company to qualify as your personal company you must hold at least five percent of the ordinary share capital and at least five percent of the voting rights, plus have a right to five percent or more of the net assets of the company and at least five percent of its distributable profits. These rights are normally attached to full ordinary shares, but they might not to apply to holders of preference shares or shares with other restricted rights.

You need to keep an eye on new share issues as they can dilute your own shareholding. If new shares are issued to investors after 5 April 2019 which dilute your holding to below five percent, your right to claim entrepreneurs' relief on a future disposal will disappear. However, you can make an election to cash-in your entrepreneurs' relief at that time to avoid losing it.

Do not forget to tell us if your company is issuing more shares or converting debt into shares, as there is a time limit for making the relevant elections.

Termination payments



If an employment contract is terminated after 5 April 2018, the £30,000 tax-free cap on a payoff does not necessarily apply in full. Any payment made on termination of the employment needs to be broken down into its elements to test which parts may be covered by the tax-free amount.

Any pay treated as employment income is taxable and only the residue of a termination award can be covered by the tax-free amount. There is a complicated formula which works out what is treated as employment income. This takes into account the individual's basic pay for their last pay period, any contractual pay in lieu of notice and how long their normal pay period and notice period were.

Any statutory redundancy payment received must be deducted from the tax-free capped amount. The previous exemption for periods spent working overseas no longer applies.

We can help you calculate the taxable element of any termination payments you need to make.

Claw-back of child benefit

The high income child benefit charge (HICBC) was introduced in January 2013 to claw back child benefit where the highest earner in the family has total net income of £50,000 or more. The full amount of the benefit is clawed back if one of the parents has income of £60,000 or more.

If this applies to your family you must tell HMRC that you need a tax return in order to self assess the HICBC. Although HMRC manages claims for child benefit, it does not know who the higher earning partners of those claimants are.

Many parents are not aware of the need to pay the HICBC. If your income rises above £50,000, HMRC does not prompt you to pay it. Some parents were issued with penalties for failing to notify HMRC of the need to pay HICBC and one taxpayer challenged his penalty and won.

HMRC has now decided to refund some parents for the penalties they were charged for failing to notify their liability to pay the HICBC for the tax years 2013-14 to 2015-16. To qualify for a refund your family must have started to receive child benefit before 7 January 2013. The penalty will be refunded automatically; you don't have to contact HMRC.

If you need to pay the HICBC for 2016-17 or a later year you still need to inform HMRC of this liability. You can amend your self assessment tax return online for 2016-17 and 2017-18 to pay the charge, or we can do this for you.

Travel expenses for self-employed taxpayers

As a self-employed trader, do you diligently record the mileage for every business journey you take? This attention to detail is necessary to convince HMRC that the cost of the journey is tax deductible. There are several apps which can help you with this.

The question is: where does your business journey start? HMRC will argue that your work only starts when you reach your customer's site and any business activities performed at your home-office are irrelevant. This would restrict your allowable travel costs to journeys between your customers and deny travel expenses for travelling from your home to the first customer of the day.

The key to claiming for journeys commencing at your home is to show that your business is truly based there. Are there business activities which can only be done at your home-office? It is a good idea to record the time you spend on activities at your home-office and what you were doing, eg contacting suppliers or drawing up quotes.

Once you have established the number of miles which qualify as business journeys you can claim 45p for each mile driven up to the first 10,000 miles and 25p per mile for any additional miles in the tax year. Alternatively, you can claim a proportion of your total motoring expense that relates to business miles compared to total mileage driven in the year.

Check your state pension forecast

Do you know how much state pension you will receive when you retire? You can find this figure though your online personal tax account; click on 'view state pension forecast'.

People who reach state retirement age after 5 April 2016 need 35 full years of national insurance contributions (NIC) to qualify for the full state pension. Your personal tax account also shows any gaps in your NIC record.

An incomplete NIC year will be recorded for periods in which you were contracted out of the state pension. If you are still under state pension age (which is gradually increasing to 68) you can continue to pay NIC or collect NIC credits to boost the amount of your state pension.

Self-employed individuals need to pay class 2 NIC of £153.40 for 2018-19 to achieve a full NIC year. If you are employed you can accrue a full year of NIC for free by earning between £6,032 and £8,424 for 2018-19. If you are neither employed nor self-employed you can pay class 3 NIC on a voluntary basis at £14.65 per week. Class 3 NIC can also be used to fill gaps in your NIC record for the last six years.

Interest from PPI claims

Thousands of people have claimed and received refunds of payment protection insurance (PPI). Most people believe that the entire payment is tax free and hence does not have to be declared on their tax return. This is not the case. Each PPI settlement includes interest calculated at eight percent on the refunded premiums and that interest is taxable. Some banks deduct 20% tax from the interest paid, but other lenders do not.

In all cases the interest portion of the PPI settlement must be declared on your tax return for the year in which it was received. There may be additional tax to pay on this interest depending on when you received it and the level of other interest received in the same year.

HMRC receives a bulk download of data from the banks relating to PPI payments, which it tries to match to individual taxpayers. But this matching is tricky as the PPI data only includes a name and address which could be years out of date. If you receive a letter from HMRC which mentions undeclared interest, this could

relate to the PPI claim you have forgotten you made. Check whether you declared the interest portion of your PPI settlement on your tax return.
If you did not declare the interest you can amend your 2016-17 tax return online until 31 January 2019. If you need to correct an earlier year you should notify HMRC by letter, or we can do this for you.

Earlier year underpayments

Tax calculations are now largely automated. When your tax return is submitted the HMRC computer calculates how much tax you owe, or whether a tax repayment is due, and issues a tax statement. If HMRC's result agrees with the tax figure the software came to, everyone is happy and your tax file can be closed for another year.

However, sometimes the HMRC computer tries to be too clever for its own good. It compares your self assessment tax return to data it has collected from other sources such as interest reported by banks. Sometimes this third-party data may not be accurate, nor even relate to your own tax affairs. Once the computer has made a connection it raises a flag to indicate that the tax payable for the current year is too low, or the tax repayment too high. It will add in an 'earlier year underpayment' to your tax statement or PAYE code.

If this happens to you we need to get your tax statement or tax code amended. This can be done through your personal tax account or by ringing HMRC. Please let us know if any strange adjustments appear in your PAYE code.

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