Tax Briefing

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Backdated tax law

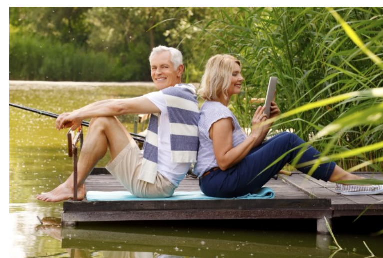
The mechanisms to pass new tax law have been disrupted by the EU referendum and the following General Election. A number of measures which were to come into effect from April 2017 or earlier had not yet been passed into law. However, the Government plans to publish another Finance Bill very shortly to include all the following tax changes to be backdated to take effect from the intended start date.

Property and trading income
From 6 April 2017 individual taxpayers will be entitled to two annual £1,000 allowances to cover rental income (but not from letting your own home under the Rent-a-Room scheme) and sundry other income, respectively. Taxpayers who receive small amounts of income within these allowances, won't have to report that income on their tax returns.

Cash basis
From 6 April 2017, individual landlords with annual gross rents of no more than £150,000 will be expected to keep their business records using a simplified form of accounting called the cash basis. Each landlord will be able to opt-out of using the cash basis and use normal accruals accounting instead.

Non-domiciled
Many people who were born abroad or who have chosen another country as their permanent home will not be domiciled in the UK. These people will be affected by new deemed domiciled rules, which will be backdated to 6 April 2017.

Pensions
Once you are aged 55 or over you can draw funds from your money purchase pension schemes. If you take more than the tax-free cash (25% of the fund), your additional pension contributions are restricted to £10,000 per year. This contribution limit will be retrospectively reduced to £4,000 with effect from 6 April 2017.



Contractors loans
Individuals who worked as contractors or freelancers in the 1990s and 2000s were often offered loans instead of regular pay. These workers were led to believe that the 'loan' would never be repayable and they would only be taxed on the nominal interest due on the loan.

HMRC is changing the law so that any of those 'loans' which remain outstanding on 5 April 2019 will be taxed as earnings, at the date the loan was originally advanced. This means the contractor will be liable for interest on that tax calculated over many years. Alternatively, the worker can settle the tax due now. Talk to us if you are in this position.

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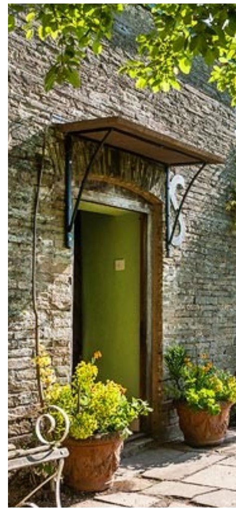
Inheriting holiday cottages

When someone dies while they own a share in a private trading business, the deceased's share of the business will qualify for 100% business relief from inheritance tax (IHT).

This business relief doesn't automatically apply where the business involves letting holiday accommodation. Although holiday lets are treated as a trade for many tax reliefs, such as capital allowances, pension contributions and some capital gains tax reliefs, they are not regarded as a trade for IHT purposes.

This point was recently reinforced in a case where the deceased held a share in eleven holiday cottages and flats. Although substantial services were provided to holiday-makers, the court



decided that the properties were held mainly to obtain rental income. It followed that they were passive investments rather than an active trade, so the share of the business didn't qualify for IHT business relief.

If you run a holiday lettings business we should review your IHT planning in the light of this case.

Making tax digital

The Government would like all businesses to interact with it digitally, particularly where tax is concerned. Although most tax returns are submitted online, HMRC believes that humans make too many errors on those returns, so the ideal position would be for the business's computer to talk directly to HMRC's computer on at least a quarterly basis. This is the essence of the making tax digital (MTD) project.

However, MTD has run into several political sandbanks, which has prompted a delay and a rethink. Now MTD for most businesses won't commence until at least April 2020, but VAT reporting will be used as test-bed for MTD from April 2019.

Businesses who submit quarterly VAT returns will be required to use accounting software to submit their VAT figures directly

to HMRC, without a manual step between the accounting system and the VAT return. This is a big ask, as many businesses need to do manual adjustments for matters such as partial exemption, overseas sales and schemes used by particular sectors such as farming. The accounting software producers don't have long to come up with workable solutions.

The Minister has said the MTD system must be shown to work well before it is extended beyond VAT.

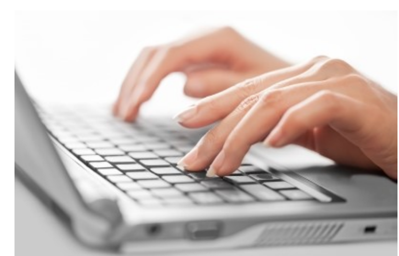
Online filing of tax returns

Your personal tax return for 2016-17 must reach HMRC by midnight on 31 January 2018. Submitting it online is generally the most efficient way to do this. However, this year HMRC's coding of the tax calculation contains a number of errors, which means taxpayers who fall into one of 32 circumstances (the exclusions) can't file their tax returns online, so must file a paper tax return instead.

HMRC has promised to fix some of the 2016-17 tax calculation errors by 31 October 2017. This should help taxpayers who have significant amounts of savings or dividend income, where it makes sense to set part of their personal allowance against that income. Those taxpayers should be able to file their 2016-17 personal tax returns online with the confidence that their tax bills will be correct.

However, not all the tax computation errors will be fixed before the paper-return filing deadline of 31 October 2017. For example, there are no plans to fix the code to ensure that the profit averaging adjustment for farmers, market gardeners and creators of literary or artistic works is performed correctly.

If your return still can't be filed online from November 2017 onwards, a paper tax return must get to HMRC by 31 January 2018. This means allowing time for the postal service to deliver the return and »



» getting proof of posting from the Post Office.

It will also be necessary to enclose a Reasonable Excuse Claim form for not filing online, and to state 'Case is listed as exclusion' on that form. If HMRC don't find a Reasonable Excuse form with a paper tax return received after 31 October 2017, they won't block the automatic £100 penalty. When that penalty arrives, you can appeal against it, but it's better to get your claim in first. We can help you complete your tax return and the Reasonable Excuse form.

Myths about letting

Income you receive from letting a property must be declared to HMRC, and you should also claim any qualifying associated expenses related to that letting.

There is a £7,500 annual allowance to cover income from letting a room in your own home to a lodger, but other rental income must be declared. This applies even if you didn't set out to make a profit from your property, such as in the following situations.

Posted abroad
People serving in the armed forces and those who work for multinational companies may be required to relocate to another country for significant periods. Where their UK home is let out the rent should have tax deducted by the letting agent, or tenant, under the non-resident landlord scheme, unless the landlord has been granted gross payment status under that scheme. The landlord also needs to declare the rental income on their UK tax return.

Pub tenants
Pub landlords who live above their pub may let out their former home. Even if the rent income only covers the mortgage payments on their own property, the whole amount of income and expenses must be declared on the owner's tax return.

Student house
Parents may buy a property for their offspring to live in while at university. Where the property is also let to other students, who pay rent to the parents, that income must be declared on the parents' tax returns. As the property is not the main home of the parents the rental income doesn't fall under the £7,500 rent-a-room relief exemption.

Care home
An individual may partly fund the cost of their accommodation in a residential care home by letting their former home. Although all the rental receipts are used to pay for the care home fees, the rent must be declared on the recipient's tax return and tax will be payable on the profits.

Where you haven't declared rental income correctly you can make a full disclosure to HMRC, and pay the tax due without fuss. This can be done by amending your last tax return, or if the non-declaration goes back a few years, use HMRC's Let Property Campaign service. Talk to us if you're affected.

Selling your UK home

Once you have moved abroad your tax status in relation to the UK changes to 'non-resident', and you become subject to different tax rules.

Importantly, when a non-resident person sells a home in the UK, that disposal must be reported to HMRC within 30 days of completion of the deal. This deadline comes as a surprise to many conveyancing solicitors as they concentrate on reporting the property purchase, as the purchaser has to pay Stamp Duty Land Tax (or LBTT in Scotland) within 30 days.

Since 6 April 2015 a sale of residential property by a non-resident vendor must also be reported online, in order to pay the Non-Resident Capital Gains Tax (NRCGT) charge within 30 days of the deal. Even if there is no tax to pay because the taxable gain is covered by allowances, the NRCGT return must still be submitted within 30 days of the completion date.

Taxpayers who are already registered with HMRC can defer payment of the NRCGT charge by ticking a box on the return.

An automatic £100 penalty applies if the NRCGT return is even one day late. When the return is six months late, a further £300 penalty is due, with another £300 if the return is twelve months late.

All late filing penalties can be appealed and may be cancelled if the taxpayer has a reasonable excuse, but ignorance of the law is not a reasonable excuse.

Why your tax code may be wrong

If you are a basic rate taxpayer, you have a savings allowance of £1,000 in 2017-18; for higher rate taxpayers it's £500. You pay no tax on any interest you receive which is covered by your savings allowance.

If you examine your PAYE tax code you may see an amount of 'untaxed interest' set against your personal allowance. Where your interest is covered by your savings allowance, this is a waste of your personal allowance. For small company owners who receive more than £5,000 of dividends it would be more efficient to set any unused personal allowance against dividend income.

If you have received a one-off bonus or commission payment since 6 April 2017, the HMRC computer will have interpreted that as a permanent increase in your monthly pay. Multiplying your bonus by twelve could take your estimated pay into a higher tax band, which will affect the rate of tax deducted through PAYE. We can help you check whether your PAYE code has been amended to deduct too much tax.

You can access your personal tax account online at: gov.uk/personal-tax-account to query any figures in your PAYE code, such as your estimated annual pay. However, you may need to ring HMRC (on 0300 200 3300) to get your personal allowance reallocated.

Why your P800 may be wrong

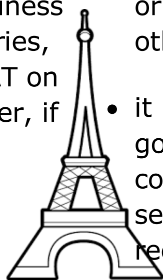
The P800 is the tax calculation produced by the HMRC computer when you have not paid the right amount of tax under PAYE in the previous tax year. If you normally complete a personal tax return you should not be sent a P800 tax computation, as the tax calculation is done when you submit your tax return.

Interest paid by banks and building societies has been paid without tax deducted since 6 April 2016. If you received interest with tax deducted in 2015-16, the same amount of interest, including the same amount of tax deducted, may have been carried over to your 2016-17 P800 computation. The fictional tax, which the computer assumes was deducted in 2016-17, is shown as being repayable to you!

The P800 computation can be corrected by phoning HMRC, but you need to spot the mistake first. We'd be glad to help check any P800 tax computation you receive.

Reclaim overseas VAT

When you incur VAT on business expenses in other EU countries, you mustn't reclaim that VAT on your UK VAT return. However, if your business meets the following conditions it can reclaim the overseas VAT through HMRC's VAT online services system:



- it must be registered for VAT in the UK;
- it must not be registered for VAT (or liable to be registered) in the country where the expenses were incurred;
- it must not have a place of business, fixed establishment or other residence, in that other EU country;
- it must not make supplies of goods or services in that EU country, except for transport services or services where the recipient pays the VAT.

You can claim for each complete quarter, if the refund claimed is €400 or more, or claim for the whole calendar year, if you are reclaiming €50 or more. These thresholds may vary in different countries. The deadline for submitting a claim for VAT incurred in 2016 is 30 September 2017; claims made after that date will not be accepted.

Your business can't reclaim VAT on goods acquired for resale, or on goods brought into the UK from another EU country. The claim must be made in the national currency of the country to which the claim is directed. The supporting invoices must be retained, but those documents don't need to be sent with the claim; they may be requested later.

There are rules on blocking refunds of VAT for particular categories of expenses, such as for business entertaining, which will differ across the EU. We can help you understand the rules on claiming overseas VAT.