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AUTUMN NEWSLETTER

Paying for social care costs

National Insurance Contributions (NICs) and dividend tax rates rise 1.25% in 2022 to fund a new health and social care package.

The increase is put on a permanent footing from 6 April 2023, as a separate tax, the Health and Social Care Levy. NIC rates then revert to current levels. Workers over state pension age, who are currently exempt from NICs, will be liable to the Levy - but not the temporary increase in NICs.

From 6 April 2022, NICs rise by 1.25% for employees (Class 1 contributions), the self-employed (Class 4 contributions) and employers (Class 1, 1A and 1B secondary contributions). Also from April 2022, dividend rates rise to 8.75% for basic rate taxpayers, 33.75% for higher rate taxpayers and 39.35% for additional rate taxpayers. These measures apply to all the UK, and have particular impact on higher earners in Scotland.

The proposals bring major change to the way social care is funded in England. They mean that from October 2023, no eligible person starting adult social care should contribute more than £86,000 over their lifetime. Where assets are less than £20,000, contributions may be required from income, but not savings or the value of the home. Means-tested support will be available where assets fall between £20,000 and £100,000. Social care is funded differently elsewhere in the UK.

Income tax administration gets shake-up

It's not just technical tax talk. Recent proposals could have a major impact on income tax liabilities.

The government is currently discussing proposals for what's called income tax basis period reform, something entailing fundamental change for unincorporated businesses. There are also discussions on whether the UK tax year itself should change. A year end of 31 December or 31 March, rather than 5 April, has been suggested.

It's not often that the tax administration framework gets an overhaul, and many of the suggestions need to be seen in the context of the move towards Making Tax Digital for income tax (MTD ITSA). This takes effect in three stages, starting from 6 April 2024 for most self-employed businesses and landlords, and 6 April 2025 for partnerships with only individuals as partners. Other partnerships enter at a later, unspecified date. The recently-published regulations stipulate that fixed quarters, rather than quarters based on the individual accounting year of the business, will be used to report to HMRC. This puts the spotlight on the choice of accounting year end, and it may be prudent to review this as part of your MTD preparation.

Basis period reform, if implemented as it stands, also has a bearing on the choice of year end. It would end the present system whereby calculations are based on the accounting year of the individual business. Instead, profits (or losses) assessed would be those occurring in the actual tax year, regardless of accounting year end. The new tax year basis would apply from April 2024 at the earliest. There would be a transitional year (2023/24 at the earliest) in which payment of tax would be accelerated. Businesses without a 31 March/5 April year end, would potentially face higher tax bills, and those with higher taxable profits in 2023/24 because of the change would be able to elect to spread the 'additional' profit over a period of up to five years.

Businesses with accounting year ends other than 31 March or 5 April would see additional complexity to tax calculations on an ongoing basis and potentially a need to submit estimated returns to meet filing deadlines. A change of accounting year end might be the optimal solution here. Many businesses would also want to consider the practical implications of the transitional year on tax bills.

Whatever last-minute adjustments to timetabling or small print there may be, change is very much in the air. Please be assured we are monitoring all these developments closely and will advise on the latest developments as they impact you.

Outstanding tax: HMRC latest

Expect a sea change in HMRC's approach to tax debt as the economy emerges from the pandemic.

Protecting livelihoods. Keeping people in work. Helping businesses with temporary cash flow issues to survive. These have been HMRC's guiding principles on tax debt ever since Covid-19 began. That starts to change this autumn.

What happens next?

As government support schemes wind down, so HMRC begins to return to something nearer its normal debt collection procedure. Though it's still committed to what it calls an 'understanding and supportive approach', the word 'but' forms part of the updated messaging. It comes here: 'But where businesses have little chance of recovery, we do have a responsibility to act'. The emphasis is on supporting 'viable businesses where we can'.

HMRC contact if there's tax outstanding

HMRC urges any business or individual worried about paying tax to phone its dedicated Payment Support Service as soon as possible. Where taxpayers don't take the initiative, HMRC will itself make contact and the importance of responding can't be overstated. Initial HMRC triage for tax debt is to establish if taxpayers can't, or simply won't pay, and cooperation here is vital. Failure to engage may mean enforcement procedures are escalated to the next level.

HMRC messaging: 'If you can pay your taxes then you should do so – but if you're struggling, we want to work with you to agree a plan based on your financial position.'

Negotiations

HMRC support includes Time to Pay repayment plans for tax. These are arranged to fit individual circumstances, with the aim of paying as quickly and affordably as possible. But HMRC will also consider short-term deferrals where nothing is paid for a short set period.

If a business has used a government loan support package, like the Bounce Back Loan Scheme, HMRC expects it to use the flexibility this provides to the full. This could mean, for example, including extending repayment terms, to maximise the chance of keeping tax payments up to date. It also advises that the existence of such a loan doesn't preclude HMRC debt collection activity: even, as a last resort, pursuing for insolvency.

Escalation

If taxpayers fail to respond, or refuse to pay, HMRC may want to visit either the home or business premises. But the aim at this stage is still to agree a payment or payment plan without further action.

From September 2021, HMRC may start the process of collecting tax debt using its enforcement powers, where someone is unwilling to discuss a payment plan or ignores its attempts to make contact.

Whilst the emphasis is still on a 'cautious approach' to debt enforcement action, HMRC powers are extensive, and it is obviously wise to take appropriate action before this stage is reached. Where a company is considering a Company Voluntary Arrangement, early engagement with HMRC is particularly important.

If you have any concerns about the payment of tax, please talk to us for further advice.

Employer funding. Act now

If you're an employer, you can still tap into Covid-19 youth job creation funding.

In Northern Ireland, that's the JobStart scheme. In England, Scotland and Wales, it's Kickstart. The schemes are broadly similar.

The Kickstart scheme has just been extended to March 2022, and is open to applications from employers and Kickstart Gateways until 17 December 2021.

Government funding is available to cover minimum wage at the appropriate level for 25 hours a week in full. It also provides the cost of employer National Insurance Contributions and employer minimum automatic enrolment pension contributions. There is also £1,500 funding per job for set up costs and skills development support. To use the schemes, employers apply directly online. Kickstart applicants can also apply through Kickstart Gateways, intermediary organisations which may offer more support to smaller employers. In mainland Britain, successful applications are sent to Jobcentre Plus work coaches, who select a pool of candidates for you to interview and appoint from. You can advertise vacancies yourself, but all jobs must receive an introduction through a DWP work coach to receive full funding. In Northern Ireland, job referrals must be made by the Department for Communities.

Your part of the equation as employer? Creating a quality six-month placement (or multiple placements) for a candidate (or candidates) aged between 16 and 24 otherwise facing long-term unemployment. In Northern Ireland, placements can run for nine months in some circumstances.

You must be able to show how you'll support your new staff grow their employability skills while they're with you. And any job must be an additional new post, created specially for the scheme, that doesn't involve your existing workforce losing out. It shouldn't, for example, replace existing or planned vacancies, or cause your existing employees, apprentices or contractors to lose work or reduce their working hours.

Processing applications can take about a month, so to access funding, act now. We should be delighted to advise further.

Salary sacrifice: how to change the small print

With the upheaval of Covid-19, employers may find themselves asked to change the terms of a salary sacrifice arrangement. What do you need to know?

Salary sacrifice: the basics

Salary sacrifice arrangements are agreements that reduce the amount your employee gets as cash remuneration in return for some sort of non-cash benefit.

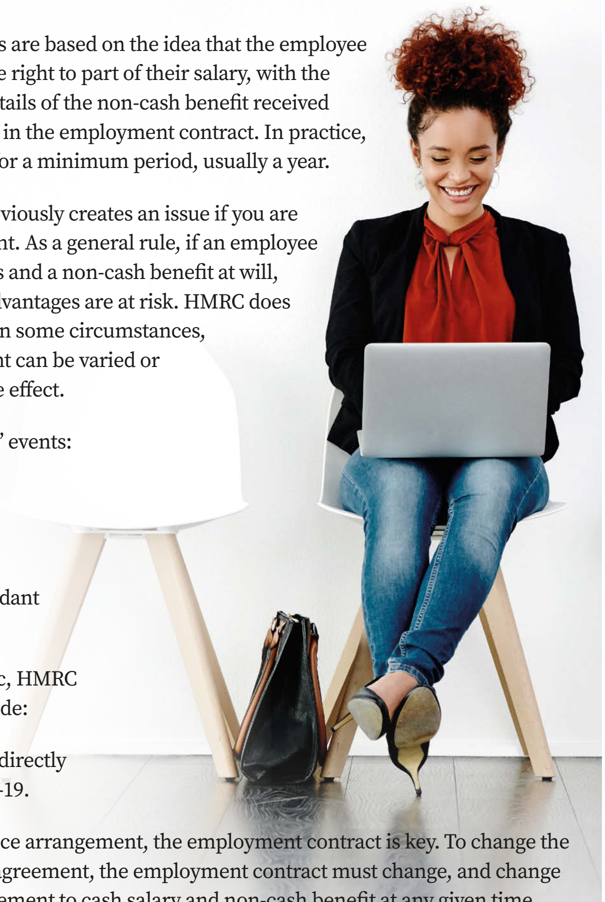
The number of benefits that can be provided free of income tax and National Insurance Contributions (NICs) under salary sacrifice schemes has been steadily eroded in recent years. The prime advantage is broadly now restricted to: employer pension contributions to approved schemes, pensions advice, cycle to work schemes, qualifying low emission cars and certain specific childcare provision. Please contact us for further details on these as they are not without complexity.

With these particular benefits, reducing gross pay through salary sacrifice can reduce employee NICs and income tax liability. For you as employer, there should also be a saving in employer NICs. You can of course offer benefits other than these, but the advantage is likely to accrue from group purchase discounts for things like gym facilities, rather than tax or NICs savings.

Tip: Make sure you remain minimum wage compliant when setting up any salary sacrifice arrangement: check that the arrangement doesn't take cash earnings below the relevant minimum wage rate.

Making changes

Salary sacrifice arrangements are based on the idea that the employee has permanently given up the right to part of their salary, with the terms of the sacrifice, and details of the non-cash benefit received in exchange, formally set out in the employment contract. In practice, arrangements tend to apply for a minimum period, usually a year.



The need for permanence obviously creates an issue if you are asked to alter the arrangement. As a general rule, if an employee swaps between cash earnings and a non-cash benefit at will, any expected tax and NICs advantages are at risk. HMRC does acknowledge, however, that in some circumstances, a salary sacrifice arrangement can be varied or discontinued without adverse effect.

This exception is for 'lifestyle' events:

- marriage
- divorce
- a partner becoming redundant or pregnant.

And because of the pandemic, HMRC has expanded the list to include:

- changes to circumstances directly arising as a result of Covid-19.

When varying a salary sacrifice arrangement, the employment contract is key. To change the terms of the salary sacrifice agreement, the employment contract must change, and change first, setting out clearly entitlement to cash salary and non-cash benefit at any given time.

Working with you

With HMRC's emphasis on the employment contract being varied before changes are implemented, and the right to salary being given up before an employee is entitled to receive the remuneration, this is an area to get right first time. We are always happy to advise on salary sacrifice or any other aspect of tax efficient remuneration.

Post Brexit teething problems with import VAT

Accounting for import VAT on the VAT return, sometimes known as postponed VAT accounting (PVA), hasn't been without its problems. We offer some practical advice.

Tip 1. PVA isn't time-limited: it's a permanent cash flow concession, applying to EU or rest of world trade. It means that rather than paying the VAT at the time of import, and recovering it later, you declare and recover it on the same VAT return. No prior approval is required.

Tip 2. If using someone like a freight forwarder, customs agent or fast parcel operator to import goods on your behalf, make sure they know how to deal with your import VAT. Make it clear if you want to use PVA, to avoid potentially expensive confusion. And keep a written record of your instructions.

Tip 3. Using PVA means you need to access a monthly postponed import VAT statement. This is obtained online, via the Customs Declaration Service (CDS). And it's CDS you need, even if you use the Customs Handling of Import and Export Freight (CHIEF) system to make the actual customs declarations. The very first time you access CDS, you will need to supply certain initial information, like your EORI number.

Tip 4. Statements are usually available to view by the sixth working day of the month and are provided in pdf format. But – and it's a big but – they are only available online for six months from the date that they're published. So to support your VAT return and provide an audit trail for compliance purposes, download and keep a copy of each statement in your records.

Working with you

We are happy to provide further detail on how PVA works, when the scheme can – or must – be used, and how to complete the VAT return. Please don't hesitate to get in touch.

Brexit. What changes next?

Though last-minute announcements alter the timetable for import checks and controls, 1 January 2022 still sees significant new compliance requirements.

Goods coming from the EU

The government has decided to phase in checks and controls on imports from the EU over a longer period. The Border Operating Model had set out major new requirements from 1 October 2021 and 1 January 2022, some with particular repercussions for the agri-food sector. This timetable is now revised.

Delayed

The new timetable pushes the start date of some new requirements into 2022. This affects pre-notification of what are called sanitary and phytosanitary (SPS) goods: export health certificates: and phytosanitary certificates and physical checks on SPS goods at border control posts. It also impacts the timetable for the introduction of safety and security declarations on imports. We should be pleased to advise in more detail if this is relevant to you. It should be noted that the easements do not apply to imports to Northern Ireland.

Still on track

The revised timetable doesn't do away with all change from 1 January 2022. Full customs controls and customs checks are still being introduced from this date, and the year-long easement allowing businesses to make delayed customs declarations ends. Unless you or your agent are authorised to use Customs Freight Simplified Procedures, you may need to pay relevant tariffs.

Northern Ireland. In another change, it has been announced that current processes for moving goods from mainland Britain to Northern Ireland will continue. For traders moving goods from the mainland into Northern Ireland, this means that the grace periods and easements currently in force are extended.

Rules of origin: check compliance now to ensure ongoing tariff-free trade

To access tariff-free trade with the EU, the onus is on businesses to demonstrate that goods qualify by originating in the UK or EU.

This is administratively complex. Proof of originating status relies either on what is called importer's knowledge, or on an exporter's statement on origin. In the latter case, suppliers' declarations can form part of the audit trail. Since 31 December 2020, there has been an easement in place, meaning businesses don't need a suppliers' declaration in place when goods are exported to claim preference – though they must be confident that the goods do meet the preferential rules of origin set out in the Trade and Cooperation Agreement.

Time is now running out. The easement ends on 31 December 2021. From 1 January 2022, suppliers' declarations are needed, and there may be retrospective checks on transactions since 1 January 2021. Make sure you have everything in place in your supply chain to enable ongoing access to tariff-free trade.

New EU export health certificates: new timetable

The EU has delayed the use of new Export Health Certificates (EHCs). Originally due to come into force from 21 August 2021, the start date is now 15 January 2022. Current EHCs, signed before 15 January 2022, can be used until 15 March 2022 for goods en route to the EU. Exporters are, however, encouraged to start moving towards use of the new EHCs so as to be ready for full implementation in January.

The EHCs are needed to export all products of animal origin, live animals, germinal products and composite products to the EU. They are also needed for movements from mainland Britain to Northern Ireland.

Extra time for product conformity marking

Great Britain (England, Scotland and Wales) has had a new domestic goods regulation regime in place since 1 January 2021, with a new product marking: the UKCA (UK Conformity Assessed) marking.

The UKCA marking is used for manufactured goods placed on the market in Great Britain, and covers most cases where the CE marking would have been used previously. It is also used for aerosol products that used the reverse epsilon marking.

To give businesses time to make the necessary changes, there is a temporary concession allowing the CE marking to continue to be used in many cases. This was due to expire on 31 December 2021. The government, however, has recently announced that it will not now mandate use of the UKCA marking until 1 January 2023 – though it encourages its adoption as soon as possible.

It should be noted that the CE marking is only valid in Great Britain for areas where rules are the same as those in the EU. Should EU rules change, the UKCA marking might need to be adopted earlier.

There may be steps you need to take to make sure products are compliant in order to continue selling them in Great Britain from 1 January 2023. If, for example, your business manufactures, imports or distributes goods that need to be tested by a conformity assessment body, you need to factor in the time for the testing process to be sure you will be ready on time.

Sales in the EU. Products for sale in the EU need a CE marking. The new UKCA marking is not recognised there.

Northern Ireland. There are different rules for product conformity marking that apply to Northern Ireland.

Navigating the rules for imports and exports needs considerable care, and it is essential to be up to date with the latest timetabling. If we can be of further assistance, please don't hesitate to contact us.