Ellacotts Business Newsletter – April 2019

Welcome to the April edition of our Business Newsletter, featuring news on Making Tax Digital, how to benefit from Patent Box tax relief, IR35 reforms in the Private Sector, the new disguised remuneration loan charge, our new tax rate cards for 2019/20, how late payments affect small business and the deadline for reporting benefits in kind to HMRC.

If you have any questions or would like to discuss any article in more detail, please contact us.

Is your business Making Tax Digital compliant?

Who needs to be compliant?

A common misconception of Making Tax Digital (MTD) is that all UK VAT registered business needed to be compliant from 1 April 2019.

This is not the case however, and only UK VAT registered businesses with a turnover above £85,000 will need to keep digital records and submit VAT returns to HMRC using MTD compatible software.

For a very small minority of businesses with more complex requirements, HMRC are deferring the deadline to 1 October 2019.

If after being required to comply, VAT taxable turnover falls below the VAT registration threshold, MTD still applies, unless the business deregisters from VAT or meets one of the other exception criteria, such as insolvency.

The deadlines for sending VAT returns and making payments are not changing.

What is classed as 'turnover' for VAT purposes?

Turnover for VAT purposes often does not include rental income from residential lettings which may be classed as exempt for VAT purposes. If your annual turnover for VAT purposes is below the threshold then you are NOT required to be MTD compliant from 1 April 2019. However, you may need to be compliant in the future.

If your annual turnover is near the threshold you should monitor this in line with HMRC guidelines.

What classifies as 'digital'?

Digital means that records need to be maintained in a format that can be directly or indirectly linked to HMRC when submitting VAT returns.

Handwritten records are NOT classified as digital, and spreadsheets can only be used if also using a "bridging" software. If you are bookkeeping on these methods alone, then you will either need to transfer to one of the software platforms recommended by HMRC or use bridging software which enables data to be sent from spreadsheets to HMRC.

Cloud accounting software is a good solution and there are other significant benefits to your business:

- It's in the cloud so you can get a clear view of your finances any time any place

- You can run your business from anywhere in the world, including at home or on your mobile device
- It automatically grabs bank receipts and payments in real time
- You can use your mobile device to photograph or scan purchase invoices and expenses and upload these to the software.

"If it's not broke why fix it?"

Although this change may be daunting, keeping digital records will also bring along with it many benefits.

You will be able to see which parts of the business are most profitable, where costs need to be cut and how much money is owed to and from the business, which greatly helps cash flow.

Many business owners who have taken the leap to convert to a digital system have said they would never go back due to the ease of use, time saved and the greater control they have over business finances.

Will 'splitting' the business mean we avoid having to become MTD compliant?

Some businesses have considered 'splitting up' certain parts of their business to reduce the turnover so it falls below the £85,000 threshold in the hope that they will no longer need to be MTD compliant. This is unlikely to work - the enterprises will still have financial, economic and organisational links and therefore HMRC may identify this as one business.

Can I still keep different sets of records for each enterprise?

You can still maintain separate records for each enterprise in order to track income and expenses accurately and to monitor profitability.

What can I do now to ensure my business is compliant?

When choosing an MTD compliant software, it is vital to consider which will one is most suited to the individual needs of your business. At Ellacotts we have a dedicated team of cloud accounting experts who can help you find the right solution and ensure you are MTD ready.

We have teamed up with bridging software companies to enable our clients to be MTD compliant whilst still using spreadsheets. We are also certified in the installation and operation of cloud accounting software which is HMRC approved and specifically designed for small and medium sized businesses.

If you would like to find out more about MTD and cloud accounting solutions, please contact Charlotte Toemaes on ctoemaes@ellacotts.co.uk or call 01295 250401.

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Patent Box Tax Relief

The UK Patent Box tax relief was introduced on 1 April 2013 and allows companies to apply a lower rate of Corporation Tax to its profits from its patented inventions. The relief was phased in over a period of years, but with effect from 1 April 2017 100% of the relief is available.

A patent is the official legal right to make or sell an invention for a particular number of years.

From 1 April 2017, the rate of Corporation Tax payable on profits arising from the use of patented inventions is 10%, compared with the normal rate of Corporation Tax of 19%. However not all income will qualify for the favourable tax rate to qualify for the reduced rate of Corporation Tax. The income must be generated from:

- licencing of patent rights
- sale of patent rights
- sale of patented items
- sale of items that incorporate a patent (e.g. sale of spare parts)
- compensation or damages for infringement of patent rights

Income from regular activities, earned regardless of patent rights or income from marketing asset return (i.e. income earned from branding, rather than from technical innovation itself) are specifically excluded from the favourable Patent Box tax regime.

The relief is available only to companies who are liable to pay Corporation Tax, and make a profit from exploiting patented inventions. If a company is a member of a group, it may also qualify if it or another company in the group has undertaken qualifying development for the patent, by making a significant contribution to either the creation or development of the patented invention, or a product incorporating the patented invention. However, to qualify under the group rules the active ownership requirement must be met by undertaking a significant amount of management regarding the companies in the group.

You don't necessarily have to own the patent. Companies can exclusively licence in the patents and must have undertaken qualifying development on them. To qualify for Patent Box relief the company needs to meet certain conditions. The company must have:

- rights to develop, exploit and defend rights in the patented invention
- one or more rights to the exclusion of all other persons (including the licensor)
- exclusivity throughout at least an entire national territory – rights to manufacture or sell within part of a country, for example, would not qualify as exclusive

Patents can be granted by any of the following:

- UK Intellectual Property office
- European Patent office
- Countries in the European Economic Area

In order to claim the reduced level of Corporation Tax, elections need to be made within 2 years after the end of the accounting period in which the relevant profit and income arose.

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The Patent Box involves complex calculations and provides a real tax benefit for companies that qualify and generate profit from patents. It is therefore advisable that you seek professional advice as early as possible.

Contact Stephen Coley on scoley@ellacotts.co.uk or 01536 646000 to discuss further.

IR35 reforms for the Private Sector

The government has published a policy paper and consultation document on the proposed changes to the off-payroll working rules, or IR35, which will affect all medium and large private sector businesses in the UK from April 2020.

The Chancellor first announced the changes during the October 2018 Budget and it will see all medium and large private sector businesses become responsible for setting the employment status of any temporary or contract worker they use. It is designed to stop contractors benefiting from tax advantages and working as disguised permanent employees.

The changes will mean that these businesses will also be responsible if HMRC deems there are any inaccuracies to the employment status of workers and it is likely to prove to be a huge administrative burden for businesses. Businesses are therefore advised to start planning now. Ellacotts has significant experience in advising the firm on IR35 and can assist in your planning.

In the document, the government has committed to ensuring that an enhanced Check Employment Status for Tax (CEST) service will be available before the reform is implemented. There will also be an education and support package put in place to guide employers.

The changes will be based on the off-payroll working legislation introduced in the public sector in April 2017. The document states that:

“Companies will be required to make a determination of a worker’s employment status and communicate that determination. In addition, the feepayer (usually the organisation paying the worker’s Personal Service Company (PSC)) will need to make deductions for Income Tax and National Insurance Contributions (NICs) and pay any employer NICs. Affected organisations should, therefore, familiarise themselves with the existing legislation in Chapter 10, Part 2 of the Income Tax (Earnings and Pensions) Act (ITEPA) 2003.”

The document is open for comments until 28 May 2019.

If you are worried about your IR35 status and would like advice contact Derek Boughton on 01295 250401 or dboughton@ellacotts.co.uk.

Disguised remuneration loan charge starts April 2019

This new charge will apply to certain loans to directors and employees that are still outstanding on Friday 5 April and new arrangements put in place after that date.

The charge affects arrangements involving loans made via Employee Benefit Trusts (EBTs) and similar disguised remuneration schemes adjudged by HMRC and the courts to be tax avoidance and liable to PAYE and National Insurance Contributions.

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There are new reporting and payment obligations that come into force for employers using such schemes from Friday 5 April. Where the employer does not pay the tax and National Insurance the liability can be passed to the individual who benefited from the loan.

Where the individual concerned had taxable income in the 2018/19 tax year of less than £50,000 they will be able to repay the liability over 5 years, and spread over 7 years if their 2018/19 taxable income is less than £30,000.

Do you need help on your remuneration loan?

Contact your usual Ellacotts contact or Ann Bibby on abibby@ellacotts.co.uk or 01295 250401 or fill out our contact form before the charge starts so we can help you.

New Tax rates for 2019/2020

We have prepared our handy tax rates card for the 2019/20 tax year which you can download here.

Late payments threaten small business survival

Nearly a quarter of UK businesses report that late payments threaten their survival. The Federation of Small Businesses reports that the problem goes beyond just paying late. It encompasses practices like retrospective discounting and 'paying-to-stay', which sees smaller companies paying to be retained as suppliers without any promise of work.

If no explicit terms for payment are agreed, then legally, payment is assumed to be due after 30 days for the purpose of charging statutory interest. At present, a government-sponsored voluntary Prompt Payment Code exists, requiring signatories not only to pay within 60 days - in line with legal requirements - but also to work towards payment within 30 days. Some large businesses now have to report on their payment terms and practices, to allow other businesses to check their payment track record before taking on work. The government also encourages recourse to the Small Business Commissioner, whose office helped small businesses recover over £2 million in unpaid invoices last year. It will now also have input into the Prompt Payment Code.

The government is looking into new ways to require large firms to pay supply chains promptly. Ensuring company boards have responsible payment practices in place throughout their supply chain is one area under consideration. Using online accounting software can also help small businesses pro-actively manage the payments process by highlighting overdue payments and being able to view their finances in real time. We are specialists in online accounting packages and can get your company up and running.

Contact Derek Boughton on dboughton@ellacotts.co.uk or 01295 250401 to discuss your small business requirements.

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Reporting Benefits in Kind to HMRC via forms P11D

The forms P11D which report details of benefits and some expenses provided to employees and directors for the year ended 5 April 2019 are due for submission to HMRC by 6 July 2019. The process of gathering the necessary information can take some time, so it is important that this process is not left to the last minute.

Employees pay tax on benefits provided as shown on the P11D, generally via a PAYE coding notice adjustment or through the Self Assessment system. Some employers 'payroll' benefits and in this case the benefits do not need to be reported on forms P11D but employers should advise employees of the amount of benefits payrolled.

In addition, regardless of whether the benefits are being reported via P11D or payrolled the employer has to pay Class 1A National Insurance Contributions at 13.8% on the provision of most benefits. The calculation of this liability is detailed on the P11D(b) form. The deadline for payment of the Class 1A NIC is 19th July 2019 (or 22nd for cleared electronic payment).

HMRC has produced an expenses and benefits toolkit. The toolkit consists of a checklist which may be used by advisers or employers to check they are completing the forms correctly.

Do you need help with your employee's benefits?

Contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401, for more help and advice.