Ellacotts Tax Newsletter – December 2019

Welcome to the Ellacotts Tax Newsletter.

This month we look at:

- General election 2019: tax proposals
- Get ready for the off-payroll IR35 rules coming April 2020
- Tax-free Christmas parties and staff gifts
- Tax relief when you donate to a charity using Gift Aid
- Cycle to work scheme £1,000 limit removed
- Don't forget there may be Tax to pay on your dividends in January
- New Capital Gains Tax rules on the sale of residential property

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

General election 2019 tax proposals

The various political parties have all made bold promises in the run up to the General Election 2019. Most have been about increased spending if elected, particularly extra money for the NHS. Although many of the spending pledges will be funded out of increased borrowing, some will be from general taxation.

What taxes will they raise to fund extra spending in the NHS?

The Liberal Democrats policy would be to increase the rate of Income Tax by 1% to raise £35 billion a year for the NHS and social care.

The Conservative and Labour parties propose to provide extra money for the NHS from Corporation Tax changes.

Corporation Tax is scheduled to be reduced from 19% to 17% from 1 April 2020. However, in a speech to the Confederation of British Industry (CBI) Boris Johnson announced that, if elected, the Conservative Party would keep the rate at 19% to provide an extra £6 billion for extra NHS funding.

Despite Jeremy Corbyn telling the CBI that the Labour party is "not anti-business" the party have previously announced that they would reverse the recent cuts in Corporation Tax. Note that the rate of Corporation Tax was 28% back in 2010 at the end of the last Labour government.

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It will depend on who wins the General Election on 12 December 2019, as to which policy will enacted. Businesses will either have to pay more Corporation Tax, or individuals will end up paying more of their salary in Income Tax.

Will there be more money for social care?

In every General Election since 1997 there have been pledges by the various political parties to resolve the funding of care for the elderly in the UK. We are still yet to to see one of these pledges actually happen. Teresa May even did a U-Turn in 2015 with her proposal for a so-called 'dementia tax'.

It's no secret that the current elderly care system is in crisis. It will be interesting to see how the Conservative, Labour and Liberal Democrats, political manifestos propose to solve the problem.

Although not strictly a tax matter, for many families funding care fees for the elderly is a bigger issue than Inheritance Tax (IHT). The current rules in England and Wales require the family to make a contribution to their elderly's care fees where the person's assets exceed £23,250. For many, the most upsetting is this figure includes the value of the 'family home'. Meaning that many families have to sell their loved one's home in order to pay for their care.

The normal Inheritance Tax planning strategy of giving wealth away and surviving for seven years does not necessarily work. This is because the social care rules are based on the concept of "deliberate deprival" of the estate. If the local authority, consider that the transfer of assets was done deliberately to deprive the estate of assets to avoid paying care fees then the transfer is classed as ineffective.

Read more about how we can help you to pass your wealth down to your family in the most tax-efficient way **here.**

If you would like more information or help with any tax related issues then please contact **Ann Bibby** on abibby@ellacotts.co.uk or 01295 250401.

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Get ready for the off-payroll IR35 rules coming April 2020

Are you paying your workers via personal service companies or agencies? You will need to operate new procedures from 6 April 2020 as HMRC bring in IR35 rules to the private sector.

How does it affect employees?

The new regime will affect you if you work via your own personal service company (PSC). If you are an off-payroll worker, you should be aware that your clients are likely to investigate the profile of their contractor workforce more closely than before. This will form as part of a general review of compliance, strategy and spend. But the changes could be felt more widely. Anyone supplying personal services via an 'intermediary' could be within the scope of the IR35 rules. An intermediary can be an individual, a partnership, an unincorporated association or a company.

The change could impact you if you supply personal services to large and medium organisations in the private and voluntary sector. If your client is a 'small' business, the rules are unchanged. A 'small' company meets two of the following criteria. Its annual turnover is not more than £10.2 million. It has not more than £5.1 million on its balance sheet. It has 50 or fewer employees. If you contract with an unincorporated organisation, the new rules only apply if its annual turnover is more than £10.2 million.

Tax implications

Significant tax implications arise. If IR35 applies, the business or agency paying you will calculate a 'deemed payment' based on the fees charged by your PSC. Broadly, this means you are taxed like an employee. You will receive payment after deduction of PAYE and employee National Insurance Contributions (NICs). If you operate via a PSC, the PSC will receive the net amount. You will then receive without further payment of PAYE or NICs. The potential tax advantages of working under such a contract – especially for PSCs – are much reduced.

This is a good time to take stock of your options. Are clients likely to query your employment status? Should you consider restructured work arrangements, or renegotiating fees? If working via a PSC, is it still the best business model? With

clients checking that contracts comply with the new rules, employment status for contractors is likely to come under increasing scrutiny across the board.

How do the IR35 rules affect employers?

Under the new rules, responsibility for making the decision as to whether IR35 rules apply passes to the business who uses the service. The key question is whether, if the freelancer's services were provided directly to that business, they would then be regarded as an employee. If you or your client use CEST, HMRC's online employment status check tool, HMRC undertakes to stand by the results if the information provided is accurate, and given in good faith. At present, however, HMRC considers CEST is unable to determine status in 15% of cases, and many commentators consider the failure rate much higher. HMRC is working to improve CEST.

The business will have to give you the reasons for the status decision in a 'Status Determination Statement' (SDS). If your worker disagrees, they can challenge the status determination. You should respond within 45 days, either withdrawing or upholding the decision, again supplying reasons.

HMRC announced on Friday 7 February that the IR35 rules will only apply to payments made for contracts that apply after the 6 April 2020. Previously, the rules would have applied to any payments made on or after 6 April 2020, regardless of when the services were performed.

What does this mean? Organisations will only need to determine whether the rules apply for contracts they plan to continue beyond 6 April 2020. Find out more about these changes here.

Do you need help with the IR35 rules?

Keep up to date with the latest IR35 news here. We would be delighted to talk through your options and the tax consequences. Please get in touch with Ann Bibby on abibby@ellacotts.co.uk or 01295 250401.

Download our free IR35 guide here.

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Tax-free Christmas parties and staff gifts

Christmas is fast approaching us. You may be considering rewarding your employees for their hard work over the last year with a tax-free gift or a staff Christmas party. We are often asked by employers about the tax treatment of this act of festive giving.

How to give tax-free gifts to employees

You can gift a Benefit in Kind (BiK) to your employees and won't be subject to tax if:

- The benefit is not cash or a cash voucher (these will be subject to tax)
- The employee is not entitled to the benefit as part of any contractual obligation such as a salary sacrifice scheme
- The benefit is not provided in recognition of particular services performed by the employee as part of their role
- The cost of providing the benefit doesn't exceed £50 (including VAT)

You may wish to give your employees a present, a Christmas hamper, a bottle of wine or even a nice box of chocolates. As long as it costs less than £50 a head, it won't be taxable. If the gift exceeds this value, it will need to be reported to HMRC and will be taxable under the normal Benefit in Kind rules. For example, an employer awards a £60 John Lewis voucher to their employee for Christmas. **The entire award would be subject to both Income Tax and NIC** as the total cost exceeds the £50 limit. It is important for you to understand that it is not just the excess over £50, but the full amount.

There is no limit on the number of trivial benefits that you can provide, as long as it **doesn't exceed £50** each time. However, where you are a 'close' company and the benefit is provided to an individual who is a director or other office holder, the exemption is capped at a total cost of **£300 for the tax year.**

Find out more about tax on trivial benefits on the UK Government website.

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Tax relief when you donate to a charity using Gift Aid

Do you donate to charity and use Gift Aid? If you are a higher rate tax payer, you should Gift Aid any donations you make to charity. You will be providing an additional benefit to the charity and you will also be able to claim tax relief on the payment. It's a win-win situation and costs you nothing.

How does Gift Aid work?

Donating through Gift Aid means that charities can claim an extra 25p for every £1 you give. For example where an individual makes a £20 cash donation to charity, the charity is able to reclaim a further £5 from HMRC. Therefore they receive a total gift of £25.

If you are a 40% higher rate taxpayer you are able to claim a further £5 tax relief under self-assessment, reducing the net cost of your donation to £15.

Remember that you are required to make a declaration that you are a UK taxpayer and if you have not suffered sufficient UK tax to support the Gift Aid amount you will be taxed on the shortfall.

Gift Aid on donated items, land and buildings

Gift Aid does not just apply to gifts of cash. Many charity shops will now sell the donated items on your behalf and are able to treat the sale proceeds as Gift Aided donations. It is also possible to gift quoted securities and land and buildings to charity and claim Gift Aid on the market value of those assets.

Find out more about Gift Aid on the Government website. Read more about how we can help you to minimise your tax liabilities.

If you would like more information or help with any tax related issues, then please contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401 or contact us here and we will get back to you.

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Cycle to work scheme £1,000 limit removed

The cycle to work scheme was introduced back in 1999. It was the governments way to encourage people to make healthier choices by helping them save money on buying a bicycle.

The Department for Transport (DfT) has recently announced that the previous £1,000 limit on the cost of a bicycle provided under the scheme has been removed. This means that employees can now buy a bike of any value via the cycle to work scheme.

Can employers set their own cycle to work scheme limit?

Employers can still set a limit on their own cycle to work scheme with their provider. However, if employers want to increase their limit beyond £1,000, they are allowed to. This will only apply where the employer uses a firm authorised by the Financial Conduct Authority (FCA) to hire out cycles to employees who use them to commute to work.

The UK Government hopes that this will encourage even more people to take up the scheme as they will be able to buy the bike they want. Encouraging people to get on their bikes is beneficial for everyone, less congestion, healthier employees and lower carbon emissions.

Reminder – where the cycle is provided under a 'salary sacrifice arrangement' there is to be no taxable benefit if the amount paid by the employee is within HMRC approved limits. Also, where the bicycle is transferred to the employee after 6 years, HMRC accept that value is small and therefore not taxable.

The provision of a bicycle to employees under the governments cycle to work scheme is an exception to the general rule introduced from April 2017 where the amount taxable is the greater of the salary foregone and the taxable benefit as set out in the tax legislation.

Other exceptions to the general rule include employer pension contributions and childcare vouchers.

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How do you set up a cycle to work scheme?

The UK Government has published **guidance on how to implement a cycle to work scheme** in the workplace on their website.

We can also help you with this and any other tax related issues. Please contact **Ann Bibby** on abibby@ellacotts.co.uk or 01295 250401 or **contact us here** and we will get back to you.

We are experienced in helping both **small businesses** to offer tax efficent schemes to thier employees and **wealthy individuals** maximise their tax position.

Don't forget there may be Tax to pay on your dividends in January

The rules for taxing dividends changed radically from 6 April 2016 with the removal of the 10% national tax credit and the introduction of new rates of tax on dividends. For many taxpayers that means more tax to pay on dividends on 31 January each year.

If you are a higher rate taxpayer and received £22,000 of dividends in 2018/19, only £2,000 of those dividends are tax-free now leaving £20,000 of those dividends to be taxed at 32.5% meaning £6,500 due on 31 January 2020, and possibly payments on account of your 2020/21 liability.

We can let you know how much tax you need to pay next January so that you can set aside sufficient funds, and we may also be able to suggest some tax planning ideas to reduce your tax liabilities. Contact Nicola Harte on nharte@ellacotts.co.uk or 01295 250401 or contact us here for more information.

New Capital Gains Tax rules on the sale of residential property

Are you looking to sell a residential property? From April 2020 you will only have 30 days to pay your Capital Gains Tax (CGT).

The UK Government have decided they want to receive the Capital Gains Tax on residential property sales much sooner. So, the rules have been changed.

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From April 2020, if you are a UK resident and dispose of UK residential property, you will need to pay your Capital Gains Tax and submit CGT returns, within 30 days of completion of the sale. For example, if the sale completes on 1 July 2020, the CGT will be due by 30 July 2020. Currently, you have either 10 or 22 months to pay CGT, so this is a big change.

What will happen if you don't pay CGT within 30 days?

There will be penalties and interest charged for failure to do so. HM Revenue & Customs (HMRC) have been communicating the change in rules. Therefore, it will be much harder if you miss the deadline, to successfully appeal against any penalties. Therefore, it's crucial you seek tax support to ensure you comply with the new rules. Ellacotts expert tax team can take the stress away and carry out the CGT return work for you.

The new rules apply to individuals, trustees and personal representatives. There are some exemptions in place with regards to certain sales, for example, the sale of your main residence.

Non-UK residents are already within this regime and from 6 April 2019, this was extended to apply to direct and indirect disposals of all UK land (whether or not a gain arises).

What should you do about the CGT changes?

Landlords have faced so many changes over recent years; the restriction to the mortgage interest relief, additional Stamp Duty Land Tax and the new regime for non-UK residents mean that the new payment regime is yet another cash-flow blow.

If you own property and you haven't yet had tax advice to understand how this will impact you and understand the planning options that are available, then Ellacotts would be happy to help. Our tax team specialise in property taxation for landlords and are well placed to advise.

Contact **Ann Bibby** on 01295 250401 or email abibby@ellacotts.co.uk or **contact us here.**