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Welcome...

To September's Tax Tips & News, our newsletter designed to bring you tax tips and news to keep you one step ahead of the taxman.

If you need further assistance just let us know or you can send us a question for our [Question and Answer Section](#).

We are committed to ensuring none of our clients pay a penny more in tax than is necessary and they receive useful tax and business advice and support throughout the year.

Please contact us for advice on your own specific circumstances. **We're here to help!**

September 2017

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New anti-money laundering regulations take effect

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The *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Pay) Regulations 2017* (SI 2017/692) took effect from 26 June 2017 and replace the previous 2007 Regulations with new statutory requirements for systems and procedures. Broadly, the regulations require firms undertaking certain financial activities to apply risk-based customer due diligence measures and take other steps to prevent the firm's services from being used for money laundering or terrorist financing.

The regulations apply to a number of different business sectors, including financial and credit businesses, accountants and estate agents. Every business covered by the regulations must be supervised by a supervisory authority.

The 2017 Regulations stipulate that **firms must appoint a money laundering compliance principal** (MLCP) and that individual must be on the board of directors (or equivalent management body), or a member of senior management, where appropriate to the size and nature of the business. Firms must also appoint a nominated officer (i.e. the individual nominated to receive internal suspicious activity reports and who assesses whether a suspicious activity report should be made to the National Crime Agency (NCA)). The MLCP and the nominated officer can be the same person but the identities of each need to be communicated to the supervisory body within 14 days of first appointment.

Firms were required to have a money laundering reporting officer (MLRO) under the 2007 regulations, but they now need to make sure that the equivalent individual under the 2017 Regulations (the MLCP) is on the board of directors (or equivalent management body), or is a member of senior management,

and that they have responsibility for compliance with the regulations.

HMRC supervises the following seven business sectors:

- high value dealers
- trust or company service providers
- accountancy service providers
- estate agency businesses
- money service businesses
- bill payment service providers
- telecommunication, digital and IT payment service providers

Where a business falls into one of these business sectors, it must be registered with HMRC. Failure to comply constitutes a criminal offence.

Further information on the regulations can be found on the gov.uk website. The Institute of Chartered Accountants in England and Wales (ICAEW) has also published an [overview](#) of the Money Laundering Regulations 2017, which provides helpful guidance on the changes.

Paying Class 2 NICs

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Whether or not Class 2 National Insurance Contributions (NICs) can be paid depends on whether an individual falls within the definition of a 'self-employed earner' for NIC purposes, and if so, whether profits are in excess of the existing small profits threshold (£6,025 for 2017/18).

The definition of a self-employed earner is defined as someone 'who is gainfully employed in Great Britain otherwise than in employed earner's employment (whether or not he is also employed in such employment)' (SSCBA 1992, s 2(1)(b)). A person who is regarded as self-employed for income tax purposes, and who is taxed on the profits from their trade, profession or vocation, is generally, but not always, regarded as a self-employed earner for NIC, which means they will be required to pay Class 2 and Class 4 NICs where applicable. By contrast, a person who receives investment income is not liable to pay NICs on that income.

Being liable to pay Class 2 NICs can be quite advantageous as contributions give access to certain contributory-based benefits for a relatively low outlay - £2.85 per week for 2017/18. For example, where NICs are not otherwise payable, it may be advantageous for a landlord to consider turning 'investment' letting into a business to bring it within the scope of Class 2 NICs, which in turn will enable him to build up an entitlement to state pension.

Self-employed people are currently required (subject to certain conditions) to pay both Class 2 and Class 4 NICs. Class 4 NICs are, broadly, calculated by reference to the payee's profits. For 2017/18 they are payable at the rate of 9% on profits between £8,164 (the Lower Profits Limit (LPL)) and £45,000 (the Upper Profits Limit (UPL)), and at 2% above £45,000.

From April 2018, however, Class 2 contributions will be abolished and the Class 4 contributions system will be reformed to include a new threshold (the Small Profits Limit (SPL)). Although we do not yet know what the individual thresholds will be, we do know that people with profits between the SPL and LPL will not be liable to pay Class 4 contributions, but will be treated as if they have paid Class 4 contributions for the purposes of gaining access to contributory benefits. All those with profits at or above the Class 4 SPL will gain access to the new state pension, contributory Employment and Support Allowance (ESA) and Bereavement Benefit. Those with profits above the LPL will continue to pay Class 4 contributions.

The abolition of Class 2 will have adverse consequences for those with profits below the current small profits threshold, who are not obliged to pay Class 2 but are doing so voluntarily in order to build up their contributions record. If they wish to continue to secure contributory benefits by paying NICs after April 2018, they will instead have to pay voluntary Class 3 contributions, currently payable at the rate of £14.25 per week - five times the Class 2 contribution rate, and a difference of £592.80 based on

2017/18 rates.

Self-employed individuals should be encouraged to check their NIC record for the last few years - this can be done [online](#) through the Gov.uk website. Those wishing to protect their state pension entitlement should ensure that they have paid, and continue to pay, as many Class 2 contributions as they need to before abolition in April 2018. A total of 35 years of contributions paid or credited are currently needed to secure entitlement to the full state pension. The minimum needed to secure any state pension is 10 years.

Double glazing salesman was self-employed

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Employment status tax cases often make the headlines in the professional press and the June 2017 case of [Tomlinson](#) was no exception. In this case, the First-tier Tribunal found that a double glazing salesman (Mr Malcolm Tomlinson) was self-employed and not an employee as he had claimed.

As with most employment status cases, this case focused on the details of the terms on which Mr Tomlinson was engaged with the company.

Many facts of the case pointed towards a self-employed status, including the fact that there was no written contract in place and Mr Tomlinson was not required to give notice of leaving. He was paid on a commission-only basis and did not receive holiday pay, sick pay or pension contribution payments. He provided his own car, mobile phone and other equipment. However, many other factors emerged which tended towards employed status. These included authority to sign initial customer contracts on behalf of the company; an expectation for working in the company showroom approximately two days a week; an expectation to complete a holiday request form; appearances in company advertisement; and an expectation that Mr Tomlinson would not work for competitors.

The First-tier Tribunal (FTT) worked its way through various factors which have historically been used to determine employment status cases. Such factors include control, equipment, financial risk and payment terms, personal service and exclusivity, mutuality of obligation, benefits provided, integration within the company's business, and intention.

In concluding its review of the overall effect of all such factors, the FTT found that the details of this case did not clearly point towards either employment or self-employment. However, looking at the overall picture, the FTT's view was that Mr Tomlinson was in business on his own account and was not therefore, an employee. The FTT concluded that it was decisive that both Mr Tomlinson and the company intended and believed that Mr Tomlinson was self-employed and had operated on that basis for almost 25 years.

As Mr Tomlinson had not discharged the burden of proof showing on the balance of probabilities that, during the period in question, he was employed under a contract of service, the decision that Mr Tomlinson was self-employed stood good.

Making Tax Digital for Business: update

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In July, the Government confirmed that the Summer Finance Bill would be published in September, with the measures dropped from the pre-election Finance Bill being reintroduced in more or less the same form, from the initially planned commencement dates. Clauses dropped from the pre-election bill and expected to be brought back include those on Making Tax Digital (MTD), although the implementation date for income tax is being postponed.

There is **widespread agreement that Making Tax Digital for Business is the right approach for the future**. However a number of concerns about the pace and scale of change have been raised. As a result the government has announced that the roll out for Making Tax Digital for Business has been amended to ensure businesses have plenty of time to adapt to the changes.

Businesses will not now be mandated to use the Making Tax Digital for Business system until April

2019 and then only to meet their VAT obligations. This will apply to businesses who have a turnover above the VAT threshold - the smallest businesses will not be required to use the system, although they can choose to do so voluntarily.

This change means that no business will need to provide information to HMRC under Making Tax Digital for business more regularly than they do now. VAT has been online since 2010 and over 98% of VAT registered businesses already file electronic returns.

HMRC have confirmed that they will start to pilot Making Tax Digital for VAT by the end of this year, starting with small-scale, private testing, followed by a wider, live pilot starting in Spring 2018. This will allow for well over a year of testing before any businesses are mandated to use the system. No business will be mandated before 2019.

From April 2019, businesses above the VAT threshold will be mandated to keep their records digitally and provide quarterly updates to HMRC for their VAT.

September questions and answers

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Q. I have two small businesses which are treated as a group for VAT purposes, so we only submit a single VAT return covering both entities. Are we eligible to use the Flat Rate Scheme?



A. Unfortunately not. If you are part of a VAT group, or are eligible to join an existing VAT group, then you cannot use the Flat Rate Scheme (FRS).

There is also a rule which stops 'associated' businesses joining the FRS.

A business is 'associated' with another business if:

- one business is under the dominant influence of another;
- two businesses are closely bound by financial, economic and organisational links; or
- another company has the right to give directions;
- in practice, a company habitually complies with the directions of another. The test here is a test of the commercial reality rather than of the legal form.

If a business has been associated in this way with another in the last two years, but is not associated at the time an application to use the FRS is made, HMRC may allow the FRS to be used, if they agree in writing, that the former association is not a risk to the revenue.

Q. I am a sole trader and I run my business from home. I am using the cash basis for preparing my accounts for tax. Can I claim expenses for running my business from home?

A. Under HMRC's 'simplified expenses' regime, if you work more than 25 hours a month from home, you should be able to claim flat rate expenses based on the number of hours you work. Current rates are as follows:

- between 25 and 50 hours worked per month: £10 per month
- between 51 and 60 hours worked per month: £18 per month
- 101 hours or more: £26 per month.

If you claim the flat rate, you don't have to work out the proportion of personal and business use for your home, e.g. how much of your utility bills are for business.

Q. I work for a sandwich delivery company and I use the company's electric van to do my round each day. I take the van home with me at night and I am allowed to use it in the evenings and at weekends if I so wish. What is the currently tax position for electric vans?

A. The tax charge on zero-emissions vans is currently going through a period of change. From

2015/16 to 2017/18 inclusive, a rate of 20% of the van benefit charge for vans which emit CO2 applies to zero-emission vans. The taxable charge for conventionally-fuelled vans is £3,230 for 2017/18.

This means that if you are liable to the van benefit charge, for 2017/18:

- if you are a basic rate taxpayer, you will pay tax of £129.20 (£3,230 x 20% x 20%); and
- if you are a higher rate taxpayer, you will pay tax of £258.40 (£3,230 x 20% x 40%).

The charge will rise to 40% of the van benefit charge for conventionally-fuelled vans in 2018/19; it will be 60% in 2019/20, 80% in 2020/21 and 90% in 2021/22. From 2022/23, the van benefit charge for zero emission vans is 100% of the van benefit charge for conventionally fuelled vans.

September key tax dates

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19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/9/2017



30 - Closing date to claim Small Business Rate Relief for 2016/17 in England

Need Help?

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Please contact us if we can help you with these or any other tax or accounts matters.



In addition, if there's anyone else who you think would benefit from the newsletter, please forward the email to them or ask them to contact us to be added to the newsletter list.

New Clients Welcome

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If you are not already a client and are interested in becoming one, we would love to come to meet with you to discuss how we can help and provide you with a competitive quote for our services.



All new client consultations are provided free of charge and without obligation.

About Us

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Smith Craven Accountants are based in Doncaster, Sheffield, Worksop and Chesterfield, offering local business owners and individuals a wide range of services.

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