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## Smith Craven

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### Welcome...

To May'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 in your own specific circumstances. **We're here to help!**

### May 2018

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### Use gift Aid to save tax

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HMRC have recently highlighted that **charities are collectively missing out on some £600m extra funding** because a third of donations made do not add Gift Aid when they could have done so.

Broadly, Gift Aid allows charities and community amateur sports clubs (CASC) to claim an extra 25p for every £1 donated. To add Gift Aid to a donation, the donor must have paid income or capital gains tax that year worth at least the value of the Gift Aid being added, and must give the charity permission to claim it. Gift Aid costs no extra to add on to the donation.

For example, a basic rate taxpayer makes a gift of £100 to a charity under the Gift Aid scheme. The donation is treated as being made net of tax. The 'grossed up' value of the donation is £125 (£100 x 100/80), which means that the charity can claim back tax of £25 from the government. The charity therefore receives £125, but it has only cost the donor £100.

Taking this a step further, Gift Aid can be used to help reduce liability to higher, and even additional, rate income tax.

For example, a higher rate taxpayer makes a gift of £100 to a charity under the Gift Aid scheme. The charity receives £125, as above, but this taxpayer can also claim 20% (the difference between the higher rate of tax at 40% and the basic rate of tax at 20%) as a tax deduction on the total value to the charity of the donation. This means that the taxpayer can claim a further £25 higher rate relief (being 20% of his gross donation of £125) via his self-assessment return.

In arriving at adjusted net income for the purposes of calculating liability to income tax, a deduction is made for the grossed-up amounts of any Gift Aid donations paid. This is important because some

reliefs and allowances are given, or withdrawn, by reference to the person's adjusted net income. Such adjustments can have a significant impact on a donor's income tax position. For example, where an individual's total income is slightly above the abatement threshold for withdrawal of the personal income tax allowance (£123,700 in 2018/19), Gift Aid donations may help increase the amount of personal allowance available, and so save tax at 40% (for non-savings income), by making a Gift Aid donation. Gift Aid donations may also help in reducing liability to the high income child benefit charge where income levels are around £50,000 to £60,000.

It is possible elect for a donation to be treated as paid in the previous tax year. Therefore, it is worth checking at the end of each tax year, whether it would be beneficial to relate back any such payments. In particular, this may help to reduce a liability to higher rate tax in a previous tax year.

### Diesel car supplement increase takes effect

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The rules for taxing petrol company cars apply equally to diesel cars, but the latter are then subject to further adjustment.

The taxable benefit arising on a car is, broadly, calculated using the car's full manufacturer's published UK list price, including the full value of any accessories. This figure is multiplied by the 'appropriate percentage', which can be found by reference to the car's CO2 emissions level using HMRC's [ready reckoner](#). This will give the taxable value of the car benefit.

For cars that are 'propelled solely by diesel', a supplement of 3% is normally added to the 'appropriate percentage', although, from 2015/16 onwards, the maximum cannot rise above 37% (previously 35%).

The diesel supplement was due to have been abolished from 2016/17. However, the 2015 Autumn Statement announced that the abolition would be deferred, meaning that the result that the 3% diesel supplement continued to apply to all diesel cars registered on or after 1 January 1998.

At the time of the Autumn Statement, it was announced that the diesel supplement would remain until 2020/21, although, since the legislation currently contains no provision for its withdrawal, the date remains unconfirmed.

However, legislation contained in the most recent Finance Act (Finance Act 2018, s. 9) **increases the diesel supplement to 4%** (from 3%), with effect from 6 April 2018. This is still subject to the overall upper limit of 37%.

The increase applies to all diesel cars first registered from 1 January 1998 to 31 August 2017. The increase also applies to diesel cars first registered from 1 September 2017 that either do not meet, or are not certified against new standards for nitrogen oxide (NOx) emissions under the Real Driving Emissions (RDE2) regime (known as 'Euro 6d'), or which do not have a certified NOx emissions figure under RDE2 standards.

The diesel supplement does not apply to cars registered after 1 September 2017 if their certified NOx emissions meet the new standard. However, diesel cars registered on or after 1 September 2017 will be subject to the 3% diesel supplement for the period 1 September 2017 to 5 April 2018 irrespective of their NOx emissions value.

### HMRC update guidance on MSCs

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HMRC have updated their guidance, following the recent decision in [Christianuyi Ltd v R & C Comms](#)[2018] UKUT 10 (TCC), in which the Upper Tribunal ruled that a number of companies were operating as managed service companies (MSCs).

In this case, the Upper Tribunal upheld the decision of the First-tier Tribunal that the appellant companies were MSCs within the scope of the MSC legislation, and subsequently that the **individuals**

were liable for **PAYE income tax and National Insurance contributions** (NICs) on the dividends they received from the appellant companies.

### HMRC's view

Where a company is set up to provide a worker's services to an engager and the MSC legislation applies, amounts paid to an MSC for those services that are not already subject to PAYE income tax and Class 1 NICs (for example, share dividends), are treated as employment income.

HMRC's firm view, now supported by the tribunal decision, has always been that these types of arrangements do not work.

HMRC continue to open enquiries into users of similar arrangements that include the provision of workers in many different industry sectors, including road haulage, healthcare and education.

HMRC state that they will investigate and challenge these arrangements through every route open to it (including litigation) and seek full settlement of the tax due, plus interest and penalties where appropriate.

In particular, they have stated that they expect those using the same or similar arrangements to pay the tax and NICs they owe following 'this emphatic win for HMRC'. Further guidance on the MSC legislation and the Christianuyi case, can be found in HMRC's Spotlight 32.

### When are tips taxable?

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The Sum season usually sees a rise in the number of casual staff taken on by restaurants and cafes. Whilst the tax and NIC implications of wages is generally straight-forward, confusion often arises regarding tips and gratuities as the necessary tax and NIC treatment depends on how they are paid to the recipient.

Cash tips handed to an employee, or left on the table at a restaurant and retained by that employee, are not subject to tax and NICs under PAYE, but the **employee is obliged to declare the income to HMRC** - HMRC often make an adjustment to the employee's PAYE tax code number to reflect the amount likely to be received during a tax year and the tax and Class 1 NICs due will be collected via the payroll.

By contrast, if an employer passes tips to employees that are either handed to him (or the employees) or left in a common box/plate by customers, the employer must operate PAYE on all payments made. Tips will also be subject to PAYE if they are included in cheque and debit/credit card payments to the employer, or if they pass service charges to employees.

The obligation to operate PAYE remains with the employer where the employer:

- delegates the task of passing the tips or service charges between employees, for example to a head waiter in a restaurant; or
- passes tips/service charges to a tronc (see below) but the tronc is not a tronc for PAYE purposes.

### Troncs

Where tipping is a usual feature of a business, there is often an organised arrangement for sharing tips amongst employees by a person who is not the employer. Such an arrangement is commonly referred to as a 'tronc'. The person who distributes money from a tronc is known as a 'troncmaster'. Where a person accepts and understands the role of troncmaster, he or she may have to operate PAYE on payments made. Broadly, under such arrangements the employer must notify HMRC of the existence of a tronc created and provide HMRC with the troncmaster's name.

There are no hard and fast rules regarding how a tronc should operate and HMRC will apply the PAYE and NIC rules to the particular circumstances of each tronc. Where payments made from a

tronic attract NICs liability, responsibility for calculating the NICs due and making payment to HMRC rests with the employer. If a tronicmaster is responsible for operating PAYE on monies passed to the tronic by the employer and has failed to fulfil his or her PAYE obligations, HMRC can direct the employer to operate PAYE on monies passed to the tronic from a specified date.

With regards to NICs, legislation provides that any amount paid to an employee which is a payment 'of a gratuity' or is 'in respect of a gratuity' will be exempt from NICs if it meets either of the following two conditions:

- it is not paid, directly or indirectly, to the employee by the employer and does not comprise or represent monies previously paid to the employer, for example by customers; or
- it is not allocated, directly or indirectly, to the employee by the employer.

Amounts paid by a customer as service charges, tips, gratuities and cover charges count towards National Minimum Wage (NMW) pay if they are paid by the employer to the worker via the employer's payroll and the amounts are shown on the pay slips issued by the employer. Tips given directly to the worker by a customer do not count towards NMW pay.

## May questions and answers

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**Q. I own a rental property, which has a mortgage on it. The mortgage is currently on an interest-only basis. Given the new interest relief restrictions on landlords' finance costs, should I consider switching to a repayment mortgage?**



**A.** The new rules restricting the amount of interest relief landlords can claim against rental income are being phased in over a three-year period between 2017/18 and 2019/20. Broadly, under the new regime, landlords will no longer be able to deduct all their finance costs from their gross property income before calculating their tax liability. Instead, they will have to work out their tax liability (without any deduction for finance costs) and then deduct an amount from their tax liability equal to 20% of their finance costs. In short, this means that from the tax year 2020/21, all financing costs will be restricted to basic rate only.

It will nearly always be beneficial to pay off a mortgage debt as quickly as possible. However, the new rules will largely (but not exclusively) affect those with gross rental income (after deducting allowable expenses apart from interest) exceeding the basic rate tax threshold. If you are liable to higher rate tax and you have a spouse or civil partner who pays a lower than you, you may wish to consider transferring part of the property to them, so that they receive some of the rental income.

**Q. My grandmother died on 3 May 2017. Her estate on death includes 12,000 ordinary shares in XYZ plc, a company listed on the London stock Exchange. The closing prices at the date of her death showed a bid price of 989p per share and an offer price of 993p per share at the end of that day. Recorded bargains on that date were listed as 970p, 980p, 983p, 989p, 993p, and 996p. How is the value of the shareholding calculated for inheritance tax purposes?**

**A.** For IHT valuations (and for capital gains tax valuations prior to 6 April 2015), the lower of the following two figures is normally used:

1) The 'quarter-up' method, i.e. the lower closing Stock Exchange price plus one-quarter of the difference between the lower and higher closing prices (this can normally be obtained, for example, from a Financial Times or similar periodical for the day following the valuation date).

So, in relation to your grandmother's shares, the value per share is calculated as  $989 + (1/4 \times (993 - 989)) = 990p$ , and the value of the shares is therefore  $\pounds 118,800$  (12,000 shares  $\times$   $\pounds 9.90$ ).

2) Mid-price between the highest and lowest recorded bargains for the day of valuation. This is sometimes referred to as the 'mid-price bargain' or 'average bargain' rule. In this case, recorded sale bargains were 970p, 980p, 983p, 989p, 993p, and 996p. The valuation is therefore  $(970 + 996)/2 = 983p$ .

The value of the shares for IHT purposes is therefore reduced to £117,960 (i.e. 12,000 shares x £9.83).

**Q. I am thinking of buying a property in England to rent out. Will I be able to offset the legal fees, stamp duty land tax, and deposit costs against the rental income I hope to receive?**

**A.** The three items you mention relate to the actual purchase of the property, rather than to renting it out. The costs are considered as 'capital expenditure' and cannot be claimed on your first tax return for the rental property to offset against rental income. However, do keep a note of these costs, because you will be able to claim for them or capital gains tax purposes, if and when you eventually come to sell the property. HMRC's [Capital Gains Tax Manual](#) provides further information on allowable expenditure.

### May key tax dates

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**2** - Last day for car change notifications in the quarter to 5 April - Use P46 Car



**19/22** - PAYE/NIC, student loan and CIS deductions due for month to 5/5/2018

**31** - Deadline for copies of P60 to be issued to employees for 2017/18

### 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.

Visit our website <http://www.smithcraven.co.uk> for more information.

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