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Welcome...

To March'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!**

March 2017

- [Changes to IR35 rules confirmed](#)
- [Tax-free access to pension advice](#)
- [Salary v dividend](#)
- [Changes to company carry-forward of losses confirmed](#)
- [March questions and answers](#)
- [March key tax dates](#)

Changes to IR35 rules confirmed

[top](#)

HMRC have recently announced changes to the way the intermediaries legislation (known as the 'IR35 rules') will be applied to off-payroll working in the public sector. In particular, contractors who provide their services to a public authority through an intermediary will need to be aware for the changes, which take effect from 6 April 2017.

Broadly, from 6 April 2017, **responsibility for deciding whether the legislation should be applied will move from the worker's intermediary to the public authority** the worker is supplying their services to.

Where the rules apply, the fee-payer (the public authority, agency, or other third party paying the intermediary) will be responsible for calculating income tax and primary National Insurance contributions (NICs) and pay them to HMRC. These amounts will be deducted from the intermediary's fee for the work provided. The worker's intermediary will be able to offset an amount equivalent to the income tax and NICs deducted from payments to it from the fee-payer against its own income tax and NICs liability in the tax year.

The changes will apply to:

- public authorities who hire off-payroll contractors;
- public sector tax managers, payroll managers, human resources managers and procurement managers;
- agencies and third parties who supply contractors to the public sector; and
- contractors who provide their services to a public authority through an intermediary.

Before the changes take effect, public authorities, agencies and third parties supplying contractors will need to consider existing contracts and make the appropriate preparations. Whilst it is for the public authority to determine whether off-payroll working rules apply when engaging a worker through a personal service company, anyone who believes they may be affected should seek further advice.

Tax-free access to pension advice

[top](#)

The Treasury has confirmed details of the new Pension Advice Allowance, which will take effect from April 2017, and which will enable people to **withdraw £500, on up to three occasions, from their pension pots** tax-free to put towards the cost of pensions and retirement advice.

Following an eight-week consultation period, the Economic Secretary to the Treasury, Simon Kirby, confirmed that the £500 allowance:

- can be used a total of three times, only once in a tax year, allowing people to access retirement advice at different stages of their lives, for example when first choosing pension or just prior to retirement;
- will be available at any age, allowing people of all ages to engage with retirement planning;
- can be redeemed against the cost of regulated financial advice, including 'robo advice' as well as traditional face-to-face advice; and
- will be available to holders of 'defined contribution' pensions and hybrid pensions with a defined contribution element, not 'defined benefit' or final salary type schemes.

According to recent research, UK savers with a pension pot of £100,000 save an average of £98 more every month and receive an additional income of £3,654 every year of their retirement if they take financial advice.

Salary v dividend

[top](#)

The questions surrounding the issue of how best to extract profits from a company in a tax-efficient manner remain as popular as ever. Despite the **abolition of the non-repayable tax credit**, the introduction of the dividend allowance, and the personal savings allowance, extraction by as remuneration and by way of dividend remain the two most widely used methods. The tax effects of these methods may be broadly contrasted as follows:

- Provided the amount is justifiable, remuneration is generally allowed as a deduction in arriving at the taxable profits of the company. The recipient is taxed on the remuneration through the PAYE system at the date of payment including a charge to NIC.
- Dividends are not deducted in arriving at the taxable profits.

It must be remembered here that payment of a salary will give rise to a liability to National Insurance Contributions (NICs), whereas payment of a dividend does not.

In considering the options, a number of other factors should also be taken into account:

- A full NIC contribution record must be maintained to ensure maximum social security benefits. Therefore, a reduction in salary may have the knock-on effect for reducing future entitlement to certain earnings-related social security benefits.
- The lack of a salary charge in the accounts may increase the value for capital gains tax (CGT) and inheritance tax (IHT) purposes of holdings valued on the basis of earnings. In addition, a higher dividend payment will increase the value of a holding calculated on a dividend yield basis, although it is unlikely to affect the valuation of a major interest.
- Dividends are payable rateably to shareholders in proportion to their holdings in the company, which may not necessarily correspond to the relative efforts of the directors in earning the profits. Dividend waivers may assist in these circumstances, but care must be taken - always seek advice on such matters.
- Dividends can only be paid out of distributable profits whereas, in theory, salaries may be paid out

without reference to the level of profits.

- The national minimum wage legislation should be considered, as this applies equally to directors under contracts of employment as it does to employees.

In deciding how profits are to be extracted, the following aspects should be considered:

- The rates applicable to dividend income are currently the 7.5% ordinary rate, which applies up to the basic rate limit, the 32.5% dividend upper rate, and the dividend additional rate of 38.1% on dividends above the higher rate limit.

- From 6 April 2016, 10% tax credit attaching to dividends was abolished and the new dividend allowance took effect. This means that the first £5,000 of dividends will be tax-free in the hands of the recipient. Whilst these changes mean that most taxpayers will thereby pay less tax, people receiving dividend income over about £140,000 a year will pay more. This forms part of the government strategy to reduce the incentive to incorporate businesses and take remuneration in the form of dividends.

- Individual needs of shareholders may differ - some may require income, others may be more interested in capital appreciation. These conflicting interests may be met by the issue of separate classes of shares with differing distribution rights.

- Lower rates of corporation tax continue to apply where profits are retained or are distributed to other companies.

For income tax purposes, and within family-owned companies, it is generally desirable to spread income around the family to fully utilise annual personal allowances and to take full advantage of nil and lower rate tax thresholds, wherever possible. The term 'family' includes all individuals who depend on a particular individual (e.g. the owner of the family company) for their financial well-being. This may include not only the spouse, civil partner and children but also aged relatives, retired domestic employees, etc.

Distributions (usually dividends) from jointly owned shares in close companies are not automatically split 50/50 between husband and wife, but are taxed according to the actual proportions of ownership and entitlement to the income.

Possible methods of spreading income around the family include employing a spouse and/or children, waiving salary (to increase profits available as dividends) or dividends (to increase the amounts available to other shareholders), and transferring income-producing assets.

Some distributions of income to family members will not be beneficial for tax purposes. The following points require careful consideration:

- salaries and wages paid to spouse, civil partner, children or other dependants will be a tax deductible expense of the company only if they can be justified in relation to the duties performed;

- a salary paid to spouse, civil partner, children or other dependants will attract a liability to NIC if it is above the lower earnings limit; and

- the investment income of an infant child (i.e. an unmarried child below the age of 18) is taxed on his parents, where it arises from a gift by them.

In the longer term, there is a risk that, at some future date, the relative advantages of each extraction method might be reversed at a time when the flexibility to switch between the two methods is restricted. Currently though, using a mixture of salary, benefits and dividends, which can be varied according to individual circumstances, remains the most sensible option.

Changes to company carry-forward of losses confirmed

[top](#)

Initially announced at the time of the 2016 Budget and following a period of consultation, Finance Bill 2017 contains provisions to reform the tax treatment of certain types of carried-forward loss for corporation tax purposes with effect from 1 April 2017.

Losses arising from 1 April 2017, when carried forward, will have **increased flexibility and can be set against the total taxable profits** of a company and its group members (referred to as the 'loss

relaxation').

For all carried-forward losses, whenever they arose, companies will be able only to use the losses against up to 50% of profits (known as the 'loss restriction'). Each standalone company or group will be entitled to a £5 million annual allowance. Profits within the allowance will not be restricted, ensuring 99% of companies are unaffected by the restriction.

Both the loss restriction and loss relaxation will apply to:

- trading losses;
- non-trading deficits on loan relationships;
- management expenses;
- UK property losses; and
- non-trading losses on intangible fixed assets.

Whilst pre-April 2017 trading losses will not be relaxed, companies will have the flexibility to choose whether or not to use pre-April 2017 trading losses before other available losses.

If a company's trade ceases and the company has unused carried-forward losses of that trade, those losses can be set without restriction against profits arising in the final 36 months of the trade. Post-April 2017 losses will be able to be set against total profits, whilst pre-2017 trading losses will only be able to be set against profits of the same trade. The profits on which losses can be carried-back against will be limited to those generated from 1 April 2017.

The legislation contains loss buying rules which will mean that where a company or group of companies is acquired, any post-April 2017 carried-forward losses that arose before the company or group's acquisition will not be available to the purchaser's group for five years.

The legislation also contains a targeted anti-avoidance rule which will prevent any arrangements being entered into with a main purpose of obtaining a benefit from the loss reform rules.

March questions and answers

[top](#)

Q. Will I have to pay stamp duty land tax on a property I am about to inherit?



A. Stamp duty land tax (SDLT) is generally payable on land transactions. There is a land transaction when land passes to a beneficiary under a will, or by virtue of the law on intestacy. However, the legislation governing SDLT (Finance Act 2003, Schedule 3, para. 3A) provides that the acquisition of property by a person:

- in or towards satisfaction of his entitlement under or in relation to the will of a deceased person,
- on the intestacy of a deceased person

is exempt from SDLT.

You should note though that this exemption does not apply where the beneficiary gives consideration other than the assumption of secured debt or the acceptance of an obligation to pay inheritance tax. Secured debt is debt that, immediately after the death of the deceased person, was secured on the land. The most common example of this is a mortgage to the extent that the mortgage is not paid off on death.

The exemption applies whether the transfer is to a sole beneficiary or to joint beneficiaries.

Q. I run a small business but I am registered for VAT. What are the advantages and disadvantages of using the annual accounting scheme?

A. The annual accounting scheme aims to help small businesses by allowing them to submit only one VAT return annually. During the course of the year, fixed sums are paid to HMRC - based on the

previous year's liability - and a balancing payment is made, if necessary, once the annual return has been prepared.

Key points of the scheme are as follows:

- A business can join the scheme providing its taxable turnover does not exceed £1,350,000 per annum.
- The business must stop using the scheme if its taxable turnover exceeded £1,600,000 per annum in the previous accounting year of the scheme.
- The business makes nine monthly payments of 10% of the total paid in the previous year or, if newly registered, the amount it is expecting to pay in the next 12 months. Alternatively, it can choose to pay 25% quarterly.
- HMRC may agree to alter the level of interim payments if the business trading pattern changes.
- A business may not obtain approval to use the scheme if it owes a significant debt to HMRC.
- Payments start on the last working day of the fourth month of the scheme's accounting year and must be made by standing order, direct debit, or other electronic means.
- The annual VAT return, together with any balance due to HMRC, is submitted two months from the end of the scheme's accounting year. This means that a business gets an extra month over the time limit applicable to a normal return.
- The scheme may assist some businesses with cash flow, particularly where the business is seasonal. For example, if the busiest trading period is in the summer, a scheme year ending, say, 31 January, will spread the payments, thus assisting cash flow. It may also be more convenient to produce both the annual VAT return and the annual accounts at a quieter time of the year.
- It is generally felt within the accountancy profession that the discipline of preparing a quarterly VAT return helps businesses to keep their records up to date and on top of their financial affairs.

Q. I live in a leasehold flat in a property in which there are six other leasehold flats. The opportunity has arisen for the leaseholders to buy the freehold reversion from the landlord and all of the leaseholders have agreed to contribute equally towards the purchase. Our solicitor has advised a limited company should be set up to buy the freehold. Are there any tax consequences involved here?

A. The Law of Property Act 1925 stipulates that a maximum of four persons can be the legal owners of land and property, which is likely to be the reasoning behind your solicitor suggesting the use of a company. This restriction, however, only applies for legal ownership, which means that named persons could hold the ownership as trustees for other persons too. Tax is usually based on beneficial ownership, not legal ownership and a 'bare trust' is often used in cases where one or more persons would hold the freehold reversion as bare trustee for all the leaseholders. For tax purposes, the tenants would be deemed to own their share of the freehold absolutely. A similar arrangement can exist in a company providing the company is a 'nominee company' which is the corporate equivalent of a bare trust. This too would have the same consequences as a bare trust.

March key tax dates

[top](#)

8 - Spring Budget 2017



19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/3/2017

Need Help?

[top](#)

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

[top](#)

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

[top](#)

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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