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# Smith Craven

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## Welcome...

To June'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!**

## June 2019



## New NIC treatment of termination payments

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The National Insurance Contributions Bill was introduced into Parliament on 25 April 2019. The Bill contains provisions designed to align the income tax and national insurance contributions (NICs) treatment of termination awards and sporting testimonials, closing a loophole which currently allows effective tax planning. If enacted, the new rules are expected to take effect from April 2020.

HMRC believe that 'the current misalignment incentivises well advised employers to disguise final payments as compensatory termination payments that benefit from a NICs exemption'. Consequently, the new provisions will affect businesses that structure termination payments to **reduce the tax and NICs liability with effect from 6 April 2020**.

Broadly, the Bill introduces a new 13.8% Class 1A Employer NICs charge to any part of a termination award or payment from a sporting testimonial, that is already income tax liable.

Any income derived from termination awards or sporting testimonials will remain free from employee NICs.

**Background**

A termination award is a payment received in connection with the termination of a person's employment.

At Budget 2016, the government announced that it would reform the income tax and NIC treatment of termination awards. Currently, certain forms of termination awards are exempt from employee and employer NICs and the first £30,000 may be free from income tax.

The Bill will align the employer NIC treatment of termination awards in excess of £30,000, with the income tax treatment for such payments.

The provisions do not affect the:

- employee NIC treatment of termination awards
- NIC treatment of statutory redundancy pay and compensation

Termination awards will remain exempt from employee NICs. The £30,000 threshold ensures that:

- no statutory redundancy pay on its own will be affected
- compensation for injury suffered in the workplace will remain free from Income Tax and National Insurance contributions

The income tax changes were made in the Finance (No 2) Act 2017 and took effect from 6 April 2018.

Further information on these changes ca be found on the GOV.uk website here.

## Making use of gift exemptions for IHT

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According to a recent survey undertaken on behalf of HMRC, only 25% of people making financial gifts have a working knowledge of inheritance tax (IHT) rules surrounding such payments.

The report entitled Lifetime Gifting: Reliefs, Exemptions, and Behaviours, reveals a significant lack of awareness of the gifting rules, liability for inheritance tax and the risk of making financial gifts without considering tax rules, which can apply for any gifts over £3,000 in value in a given tax year.

The research also revealed that those with potentially smaller estates (below £500,000) appear **to have a limited knowledge of the longer-term reach of inheritance tax,** the seven-year rule or annual limit on gifts.

**Gifts**

The IHT annual exemption enables a person to give away up to £3,000 per annum free of IHT. In addition, any unused exemptions from the previous year, may be carried forward, although any unused exemptions earlier than a year will be lost. This means that if no gifts have been made in the previous tax year, a person could make an IHT-free gift in the current tax year of £6,000. If the amount exceeded the annual exemption available, it could still remain exempt from IHT, if the person making the gift survives seven years.

If the person making the gift dies within this seven year period, the gift may be taxed on a sliding scale known as 'taper relief'. This means that where the gift was given less than three years before death, tax on the gift is charged at the full rate at 40%, reducing to a taxable rate of 8% if the gift is given six to seven years before death.

With many families facing expensive care costs for family members, it is important to note that there are strict rules on property transactions. While a gift given more than seven years before death is not normally counted towards the value of the estate, this is not true where a gift is subject to a reservation of benefit. This means, for example, if an individual gives away their home to their children and continues to occupy it rent-free, the property is treated as forming part of the individual's estate immediately before their death for IHT purposes.

In addition to the annual exemption, small gifts of up to £250 per year may be made free from IHT. The gift must be an outright gift to any one person each tax year.

Gifts on marriage can also be free of IHT provided that the gift does not exceed set limits. The limits depend on the relationship to the married couple/ civil partners and are as follows:

- Parents - £5,000
- Grandparents, great-grandparents - £2,500
- Bride to groom/ groom to bride/ bride to bride/ groom to groom - £2,500
- Anyone else - £1,000

These exemptions may be combined in certain circumstances to reduce a potentially exempt transfer (PET).

**IHT threshold**

The current starting threshold for IHT for a single person is £325,000, and £650,000 for married couples and civil partners, who have the added benefit of the residential nil-rate band giving them an additional £150,000 each of tax-free property-based inheritance as of 6 April 2019. The allowance is set to rise to £175,000 from 6 April 2020.

This additional tax relief is only available when assets are passed on to direct descendants, including children or grandchildren, tax-free after their death. The rules governing the inheritance tax (IHT) nil rate band are complex and will need careful consideration.

## MTD for VAT: guidance updated

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HMRC have published an updated version of their guidance for businesses on Making Tax Digital for VAT. In particular, the guidance now includes information on how businesses should deal with petty cash transactions.

Petty cash is traditionally a small amount of cash on hand that covers day to day expenses of a business, such as buying a pint of milk. In some businesses it can be used to describe costs that are not attributable to an individual account in their records. Requiring businesses to record each of these transactions in digital records could be an unreasonable administrative burden for businesses. Therefore, **HMRC will accept that a number of petty cash transactions can be recorded as a single purchase in the digital records of the business,** subject to a monetary limit.

HMRC confirm that the following rule has the force of law:

Where a business uses petty cash to pay for small value items, these do not need to be individually recorded in the digital records. The business can record the total value and the total input tax allowable. This applies to individual purchases with a VAT-inclusive value below £50 and the total value of petty cash transactions recorded in this way cannot exceed a VAT-inclusive value of £500 per entry.

Regarding other areas, HMRC guidance on the turnover test, following the rules when you're exempt, digital links, supplies made by third party agents and supplies received has been updated, and new guidance on the use of supplier statements and charity fundraising events has been added.

The guidance can be found on the GOV.uk website at https://www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat.

## Moving into partnership

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A partnership may be a simple trading vehicle enabling two or more people to own and run a business, but there are few practicalities worth considering before making the move.

Whilst there are no legal formalities involved in establishing a partnership, and a partnership may come into existence under an oral agreement, it is advisable that a formal partnership deed is drawn up. This is a legal document that sets out what each partner is responsible for and what he can expect from the business. Many partnerships ask a solicitor to help with the deed, but it is possible for the partners to drawn one up themselves. Note that although anyone can enter into a partnership, **partners under the age of 18 cannot be legally bound by the terms of a partnership agreement**.

Unlike limited company status, partners do not have any protection if the partnership fails. If one of the partners resigns, dies, or goes bankrupt, the partnership has to be dissolved, even though the business itself may not need to cease.

Each partner is treated as being individual self-employed taking a share of the partnership profits. The partners generally share the decision-making and management of the business, but each partner is personally responsible for any (and potentially all) debts that the partnership incurs, and each person pays income tax and NICs on his share of the partnership profits.

A partnership must appoint one of the partners (referred to as the 'nominated officer') to complete a partnership tax return each year and submit it to HMRC. This return includes a Partnership Statement, which shows how profits or losses have been divided amongst the partners. The nominated partner is also obliged to provide each partner with a copy of the Partnership Statement to assist them with completing their own personal tax return correctly.

Where a sole trader takes in one or more partners there is a change in business entity for VAT purposes. If the sole trader is VAT registered, the change must be notified to HMRC within 30 days and the existing VAT registration will be cancelled. Alternatively, an application may be made (on form VAT 68) for the VAT registration to be transferred to the partnership. The partnership itself must register if the VAT taxable turnover is more than the VAT registration threshold (currently £85,000).

A limited liability partnership (LLP) structure may be an agreeable compromise in some circumstances - offering both the flexibility of a general partnership and the limited liability protection of a company. LLP partners share costs, risks, and responsibilities of the business. They also take a share of the profits, and pay income tax and NICs on their share of the partnership profits. However, under an LLP agreement, debt will be limited to the amount of money each partner invested in the business and to any personal guarantees given to raise business finance. Since liability is generally restricted to the level of investment, members of LLPs will benefit from a certain level of protection if the business runs into difficulties.

## June questions and answers

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**Q. If I take my staff away overnight for an off-site daytime business meeting and evening social function, will the costs be tax deductible for corporation tax purposes?**

**A.** The costs will be allowable for the company, but a benefit-in-kind will arise on the social aspect of the trip. It may be possible to obtain HMRC approval that the benefit falls within the exemption for annual parties and similar functions costing no more than £150 per attendee (if the £150 is exceeded, the whole amount is taxable as a benefit).

You may wish to consider structuring the event to take advantage of a wide-ranging and generous tax exemption for work-related training. The term 'work-related training' covers any training course or other activity designed to impart, instil, improve or reinforce any knowledge or skills or personal qualities which is, or is likely to be useful to the employee in performing the duties of any 'relevant employments' or which will qualify or better qualify the employee to undertake any relevant employment or such charitable or voluntary activities which could be undertaken in connection with the 'relevant employment' (ITEPA 2003, s 251(1)).

It may be possible to sandwich the evening 'social' event between actual training, with the evening event designed to be motivational (or achieve some other betterment purpose), but great care is needed here to ensure the costs qualify.

**Q. I am in the process of purchasing a new house that I will use as my main residence. I will sell my current main residence as soon as I buy the new house. I also own several other rental properties but I have never lived in any of them. Will I have to pay the higher rate stamp duty land tax (SDLT) charge on my new house?**

**A.** The basic rule is that the higher SDLT rates apply when you buy a residential property (or a part of one) for £40,000 or more, if:

- it will not be the only residential property worth £40,000 or more that you own (or part own) anywhere in the world;
- you have not sold or given away your previous main home;
- no one else has a lease on it which has more than 21 years left to run.

You may have to pay the higher rates even if you intend to live in the property you're buying (and regardless of whether or not you already own a residential property).

If you sell or give away your previous main home within 3 years of buying your new home you can apply for a refund of the higher SDLT rate part of your Stamp Duty bill.

From 29 October 2018 onwards, a refund must be claimed within 12 months of either the:

- sale of the previous main residence
- filing date of the SDLT return relating to the new residence, whichever comes later.

**Q. I have been running my own business since 1 September 2018 and now wish to complete my 2018/19 tax return. I have not incurred any capital expenditure and my turnover is less than the current VAT registration limit. Should I use 31 March (or 5 April) as my accounting year-end?**

**A.** If you make your business accounts up to 31 March, HMRC will treat this as being made up to 5 April.

One advantage of a 31 March/ 5 April year-end is that no 'overlap' profits will be created. Broadly, overlap profits are bought about by being taxed twice in the first two years of trading. You would get relief for this overlap, but potentially this won't be until a much later stage (for example if you change your accounting date, or if you cease to trade).

One advantage of a 30 April year-end is that tax is paid later. So, for a 30 April 2019 year-end, tax will become due for payment on 31 January 2021, and the tax on profits earned between 1 May 2019 and 30 April 2020 will be payable by 31 January 2022. If the business had a 31 March 2020 year-end, the tax on profits earned between 1 April 2019 and 31 March 2020 would become payable until 31 January 2021. Remember though, if you chose a later year-end, make sure that you keep enough money aside to pay your tax bill when is becomes due.

## June key tax dates

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**19/22** - PAYE/NIC, student loan and CIS deductions due for month to 5/6/2019


## 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.

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

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