

NEWSLETTER FEBRUARY 2015

PENSION FLEXIBILITY

The Government has announced that people who wish to access their defined contribution pension flexibly will be able to go to a local Citizens Advice Bureau across the UK for expert free and impartial face to face guidance or receive telephone guidance from the Pensions Advisory Service.

In Budget 2014 radical changes to the way individuals can access their pensions were announced. The Government promised that those able to take advantage of these flexibilities would be entitled to free and impartial guidance on their available choices as they approach retirement.

Pension expert Dr Ros Altmann CBE said:

'This is a big step forwards in ensuring the pension revolution announced in the Budget will have a meaningful impact on pension savers. It is clear that, currently, most people saving for a pension don't understand all the vital issues, and it's really important that they receive impartial help to make the best decisions for themselves.'

'Both the Pensions Advisory Service and Citizens Advice have longstanding experience in helping the public with financial issues; and it is really important that people do trust the scheme, otherwise they remain at risk of stumbling into poor decisions.'

IR35 BUSINESS ENTITY TESTS

The 'IR35' rules are designed to prevent the avoidance of tax and national insurance contributions through the use of personal service companies and partnerships.

The rules do not stop individuals selling their services through either their own personal companies or a partnership. However, they do seek to remove any possible tax advantages from doing so.

One of the ways in which businesses, advisers and HMRC determine whether or not the IR35 rules apply is by the use of Business Entity Tests (BETs) which were introduced in 2012. The points based system is used to risk assess whether a particular arrangement is caught by the rules.

The IR35 Forum has recently reviewed the approach to administering IR35 and found that the BETs were not helpful to businesses as they were:

- used very little
- not fulfilling their intended purpose.

As a result the review recommended withdrawing the BETs.

HMRC have accepted this recommendation and will withdraw the BETs from 6 April 2015. They have also confirmed how this change will affect previous, ongoing or future enquiries which are detailed in the link.

If you are concerned how this change will affect you or your business please do get in touch.

VAT ON 'SNOWBALLS'

HMRC have published a Brief which advises that 'snowballs' are zero rated for VAT purposes.

Following the decision of the First Tier Tribunal HMRC have issued guidance on the VAT treatment of 'snowballs'. The case concerned the VAT liability of this food item and whether or not it was confectionary (standard rated) or a cake (zero-rated). The 'snowballs' considered were those manufactured by Lees of Scotland and Thomas Tunnock Ltd which are a dome of marshmallow covered with sugar strands and a chocolate, carob, cocoa or coconut coating with or without a jam filling.

Both manufacturers had challenged a previous ruling that 'snowballs' were standard rated confectionery by claiming they were also cakes and submitted voluntary disclosures for VAT they claimed was overcharged. HMRC disagreed with this view and so the matter was decided by the First Tier Tribunal.

The Tribunal considered what factors should be considered when identifying whether a product is a cake and weighed the relevant factors in the balance. The Tribunal did not dispute that snowballs are confectionery however they accepted they do have sufficient characteristics of a cake for them to be characterised as a cake, which means they are zero rated for VAT purposes.

HMRC have accepted that decision and will be updating their guidance in respect of this type of snowball in due course.

In limited circumstances suppliers of these products may be entitled to a refund however this claim would be subject to the 'unjust enrichment' rules and the 4 year cap in line with normal HMRC procedures.

This case helps to illustrate how important it is to get the VAT treatment right. Please do get in touch for advice on VAT issues.

AUTUMN STATEMENT

The Chancellor George Osborne delivered his Autumn Statement on 3 December and said:

'...to improve the productivity of our economy, we back business and we build infrastructure and we will support growth across the whole UK.'

'But in the end, Britain's future lies in the hands of its people and their aspirations.

The aspiration to save, to work, and to buy a home. Today we support each one.'

We have included details of some of the major announcements.

STAMP DUTY LAND TAX (SDLT)

One of the Autumn Statement announcements is a major reform to SDLT on residential property transactions. Historically SDLT has been charged at a single percentage of the price paid for the property, depending on the rate band within which the purchase price falls. From 4 December 2014 each new SDLT rate will only be payable on the portion of the property value which falls within each band. This will remove the distortion created by the existing system, where the amount of tax due jumps at the thresholds.

Where contracts have been exchanged but not completed on or before 3 December 2014, purchasers will have a choice of whether the old or new structure and rates apply. This measure will apply in Scotland until 1 April 2015 when SDLT is devolved to the Scottish Parliament.

The new rates and thresholds are:

Purchase price of property	New rates paid on the part of the property price within each tax band
£0 - £125,000	0%
£125,001 - £250,000	2%
£250,001 - £925,000	5%
£925,001 - £1,500,000	10%
£1,500,001 and above	12%

The government believes that this reform makes SDLT more efficient and fairer, and ensures that SDLT will be cut for 98% of people who pay it.

EMPLOYMENT BENEFIT CHANGES AHEAD

In the Autumn Statement the government announced a package of measures which will impact the treatment of employee benefits in kind and expenses.

- From 6 April 2015 there will be a statutory exemption for trivial benefits in kind costing less than £50.
- From 6 April 2016, the £8,500 threshold below which employees do not pay income tax on certain benefits in kind will be removed. This threshold adds unnecessary complexity to the tax system. There will be new exemptions for carers and ministers of religion.
- There will be an exemption for certain reimbursed expenses which will replace the current system where employers apply for a dispensation to avoid having to report non-taxable expenses. The new exemption for reimbursed expenses will not be available if used in conjunction with salary sacrifice.
- The introduction of a statutory framework for voluntary payrolling benefits in kind. Payrolling benefits instead of submitting forms P11D can offer substantial administrative savings for some employers.

Please contact us if we can help with employee benefits and expenses reporting.

PERSONAL ALLOWANCES AND TAX BANDS 2015/16

For those born after 5 April 1948 the personal allowance will be increased from £10,000 to £10,600. The reduction in the personal allowance for those with 'adjusted net income' over £100,000 will continue. The reduction is £1 for every £2 of income above £100,000. So for 2014/15 there is no allowance when adjusted net income exceeds £120,000. In 2015/16 the allowance ceases when adjusted net income exceeds £121,200.

The basic rate of tax is currently 20%. The band of income taxable at this rate is being decreased from £31,865 to £31,785 so that the threshold at which the 40% band applies will rise from £41,865 to £42,385 for those who are entitled to the full basic personal allowance.

The additional rate of tax of 45% is payable on taxable income above £150,000.

Dividend income is taxed at 10% where it falls within the basic rate band and 32.5% where liable at the higher rate of tax. Where income exceeds £150,000, dividends are taxed at 37.5%.

Starting rate of tax for savings income

From 6 April 2015, the maximum amount of an eligible individual's savings income that can qualify for the starting rate of tax for savings will be increased to £5,000 from £2,880, and this starting rate will be reduced from 10% to nil. These rates are not available if taxable non-savings income (broadly earnings, pensions, trading profits and property income) exceeds the starting rate limit.

This will increase the number of savers who are not required to pay tax on savings income, such as bank or building society interest. If a saver's taxable non-savings income will be below the total of their personal allowance plus the £5,000 starting rate limit then they can register to receive their interest gross using a form R85.

ADVISORY FUEL RATES FOR COMPANY CARS

New company car advisory fuel rates have been published which took effect from 1 December 2014. The guidance states: 'You can use the previous rates for up to one month from the date the new rates apply'. The rates only apply to employees using a company car.

The advisory fuel rates for journeys undertaken on or after 1 December 2014 are:

Engine size	Petrol
1400cc or less	13p
1401 cc - 2000cc	16p
Over 2000cc	23p

Engine size	LPG
1400cc or less	9p
1401 cc - 2000cc	11p
Over 2000cc	16p

Engine size	Diesel
1600cc or less	11p
1601cc - 2000cc	13p
Over 2000cc	16p

Please note that not all of the rates have been amended so care must be taken to apply the correct rate.

Other points to be aware of about the advisory fuel rates:

- Employers do not need a dispensation to use these rates. Employees driving employer provided cars are not entitled to use these rates to claim tax relief if employers reimburse them at lower rates. Such claims should be based on the actual costs incurred.
- The advisory rates are not binding where an employer can demonstrate that the cost of business travel in employer provided cars is higher than the guideline mileage rates. The higher cost would need to be agreed with HMRC under a dispensation.

If you would like to discuss your car policy, please contact us.

DO YOU EMPLOY ANYONE UNDER THE AGE OF 21?

From the 6 April 2015, if any of your employees are under the age of 21 you may no longer need to pay employer Class 1 secondary National Insurance contributions (NICs) on their earnings.

The rate of employer Class 1 NICs for employees under the age of 21 will be 0% up to the new 'Upper Secondary Threshold' (UST) which, for the tax year starting 6 April 2015, will be the same as the Upper Earnings Limit (UEL).

Class 1 NICs will however continue to be payable on all earnings above this threshold. The basic rules and calculations of National Insurance including how Class 1 NICs are assessed will not be changed by this measure.

For employees who are at, or over, the age of 16 and under the age of 21 there will be a range of new NI category letters to available. From 6 April 2015, when submitting PAYE information for employees under the age of 21 employers will need to use the new category letter appropriate to the individual.

Seven new National Insurance category letters have been introduced. The most commonly used one will be category M:- Not contracted-out standard rate contributions for employees under 21.

Employers (or their agents) are responsible for ensuring they report the correct category letter. To do this, employers will need to make sure they hold the correct date of birth for employees.

If you would like help with your payroll please do get in touch.

HELPING EMPLOYERS IDENTIFY A PENSION SCHEME FOR AUTOMATIC ENROLMENT

The Pensions Regulator (TPR) has opened consultation on a proposal to publish a list of pension schemes that are available to any employer, regardless of the number of workers the employer has or their levels of pay.

According to research carried out by the Department for Work and Pensions 48% of small and 79% of micro employers currently have no pension scheme and will have to choose a new one as they prepare for automatic enrolment.

TPR state they are *'aware of 30-40 providers who offer a scheme for automatic enrolment. Of these, a much smaller number of schemes have indicated they will not reject employers on the basis of size or low value. Even fewer schemes have indicated they will accept all employers who approach them.'*

To read more about this issue and the consultation visit the link below.

CHANGES TO THE CONSTRUCTION INDUSTRY SCHEME (CIS)

The government has announced that it will implement a package of improvements to the CIS. The stated aim of the changes is to reduce the administrative and related cost burden on construction businesses. The measures should result in more subcontracting businesses being able to achieve and maintain gross payment status so improving their cashflow. These changes are to be implemented in stages.

From 6 April 2015 the following amendments will be made to the system:

- The requirement for a contractor to make a return to HMRC even if the contractor has not made any payments in a tax month will be removed. Contractors may make a voluntary nil return but will no longer be obliged to do so.
- The requirements for joint ventures to gain gross payment status will be relaxed where one member already has this status and that firm or company has a right to at least 50% of the assets or the income or holds at least 50% of the shares or the voting power in the joint venture.
- Earlier repayments can be made to liquidators in insolvency proceedings. Currently where a subcontractor is a company, no repayment of any amount deducted and paid over to HMRC by a contractor can be made to the subcontractor until after the end of the tax year in which the deduction was made. These rules will be amended so that in certain cases where the amount deducted by the contractor is excessive, a repayment can be made during the tax year.

From 6 April 2016 further changes are proposed:

- Mandatory online filing of CIS returns will be introduced with the offer of alternative filing arrangements for those unable to access an online channel by reason of age, disability, remote location or religious objection.
- The directors' self assessment filing requirements will be removed from the initial and annual compliance tests.
- The threshold for the turnover test will be reduced to £100,000 in multiple directorship situations.

From 6 April 2017 mandatory online verification of subcontractors will be introduced.

VAT AND DIGITAL SERVICES

HMRC have issued some additional guidance for small businesses which supply digital services to consumers in other EU Member States.

The guidance advises:

- how to comply with new VAT rules on the place of supply of digital services that came into force on 1 January 2015
- how to register for HMRC's VAT Mini-One Stop Shop (MOSS) and still benefit from the UK's VAT registration threshold for sales to UK consumers.

On 1 January 2015, the VAT rules for cross-border Business to Consumer supplies of 'digital services' (for example broadcasting, telecoms and e-services) changed. Broadly from that date, VAT must be accounted for in the Member State where the consumer normally is, rather than where the supplier of the service is established.

HMRC have also issued more general guidance on the change to all businesses.

If you would like further information on this issue please contact us.

HOLIDAY PAY AND OVERTIME UPDATE

In the judgement an Employment Appeal Tribunal (EAT) has decided that holiday pay should reflect non-guaranteed overtime.

Under the Working Time Regulations 1998 most workers are entitled to paid statutory annual leave. This is 5.6 weeks (28 days) if the employee works five days a week. A worker is entitled to be paid in respect of any period of annual leave for which they are entitled, at a rate of one week's pay for each week's leave.

The EAT considered three cases in which employees were required to work overtime if requested by their employees. The EAT referred to this type of overtime as non-guaranteed overtime. The Tribunal decided in the context of non-guaranteed overtime:

- overtime payments must be taken into account in the calculation of holiday pay if there is a settled pattern of work
- if the amount of overtime varies but is regularly paid, overtime payments must also be taken into account on an average basis.

Following fears that employers may face large backdating claims the Government has taken action to reduce potential costs to employers by limiting claims by introducing regulations which will mean that claims to Employment Tribunals on this issue cannot stretch back further than two years.

Employees can still make claims under the existing arrangements for the next six months which will act as a transition period before the new rules come into force. The changes apply to claims made on or after 1 July 2015.

Employers and employees can also contact the Acas helpline for free and confidential advice.

If you would like any help in this area please do get in touch.

RTI: FILING PENALTIES AND APPEALS

In the latest Employer Bulletin HMRC are reminding employers that they are about to issue penalty notices to those employers who have failed to meet their RTI filing obligations.

Late filing penalties began on 6th October for employers with schemes of 50 or more employees. Those employers who have incurred these penalties will start to receive the penalty notices, which will be issued on a quarterly basis, from the beginning of February 2015.

The notice will be in the form of a 'paper letter', and will set out all filing penalties incurred for the third quarter of 2014/15 (for tax months 7, 8 and 9 covering the period 6th October to 5 January 2015). The penalty notices may contain more than one penalty.

Agents are not sent a copy of this notice so if you receive one and would like guidance on whether the penalty is due or how to appeal against it please do get in touch as soon as possible. Further guidance on this issue can be found on page four of the latest Employer Bulletin.

GOVERNMENT PUBLISHES GUIDANCE ON NEW 'FIT FOR WORK' SERVICE

The Government has published guidance on its new Fit for Work service, which aims to help tackle the problem of long-term sickness absence.

The service is being introduced to facilitate the return to work of employees who have been off sick for a period of four weeks or more. The new service will enable employers to refer their employees, with the employee's consent, for an occupational health assessment. Following the assessment, a return to work plan will be created, including recommendations for employers on how to assist the employee with getting back to work.

A benefit in kind tax exemption of up to £500 per year per employee will be available for employer spending on medical treatments recommended by the assessment which help employees to return to work.

The Department for Work and Pensions is advising employers to update their sickness policies to reflect the existence of the new service.

If you would like any help in this area please do get in touch.

HMRC WARN OF PHISHING EMAIL SCAM

HMRC are warning taxpayers to be wary of the latest in a long line of email phishing scams that claims taxpayers have '*made mistakes while completing their last tax form application*'.

HMRC have updated their list of phishing email scams to include the latest bogus email being circulated. According to HMRC:

'the email contains a link which should not be clicked as it may direct you to a phishing site or contain malware. Do not respond to this email. Forward it to phishing@hmrc.gsi.gov.uk then delete it.'

AUTO ENROLMENT LETTERS AND UPDATED THRESHOLDS

The Pensions Regulator (TPR) is to write to all small and micro businesses in the coming months as part of a new campaign to give them key information on auto enrolment, including when the duties affect their businesses. Businesses will receive a letter 12 months before they are due to start operating their workplace pension. This is an important letter which should be retained as it contains a code you will require later on. If J F Hornby & Co operates your payroll, or you would like us to operate your pensions auto enrolment, please contact us as soon as you receive the letter from The Pension Regulator, in order that we can discuss the options available. Please ask for Rachel Akister.

In addition the auto enrolment qualifying earnings bands and earning thresholds have been announced for 2015/16. These thresholds are relevant to employers complying with their automatic enrolment obligations to enrol and then make pension contributions for eligible employees. Employers must meet their obligations from their staging date which can be found by using TPR Website tool.

The revisions in the limits take effect from 6 April 2015 and follow the recommendations from consultation with interested parties.

TPR proposes to revise the limits to the following amounts:

- £5,824 for the lower limit of the qualifying earnings band
- £42,385 for the upper limit of the qualifying earnings band

These limits are used by employers to calculate how much pension contributions are due where band earnings are the basis of calculation.

The amount someone must earn to be automatically enrolled into a workplace pension (the earnings trigger) will remain at £10,000 per annum instead of being aligned with the personal allowance as it has been for previous years following concerns that low paid workers will miss out on pension contributions.

PENSION WISE

The government has announced the launch of 'Pension wise' which will offer free and impartial guidance to people on the new pension freedoms which comes into effect in April.

Economic Secretary to the Treasury Andrea Leadsom has unveiled the name and logo of the new pensions guidance service.

Pension wise will offer free and impartial information and guidance to people with a defined contribution pension approaching retirement and will be available from April 2015 for individuals approaching retirement.

Economic Secretary to the Treasury Andrea Leadsom said:

'People who have worked hard and saved all their lives will be free to choose what they do with their money from next April.

We want people to be empowered to make informed and confident choices and I'm delighted to announce Pension wise: Your money. Your choice as the brand name for the impartial guidance service we are building.

Pension wise will be a first port of call for people with a defined contribution pension who are approaching retirement. It is a distinctive brand, making it easy for consumers to know where to go for help and guidance.'

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ⁱ *The articles in this newsletter are of necessity summaries of the topics covered. The publisher has taken all due care in the preparation of this publication. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication can be accepted by the authors or the publishers. The publisher accepts no responsibility for the content of any material provided by third parties or for the content of any hypertext site referred to in this publication. The Publisher accepts no responsibility for the content of any website of other document referred to in this publication.*