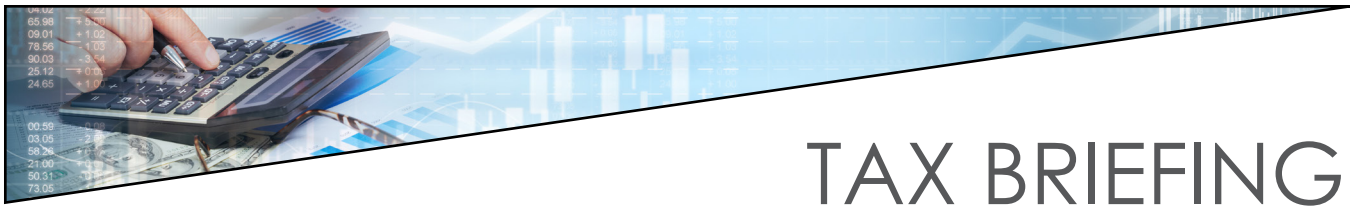

TAX BRIEFING
MARCH 2019

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EMPLOYEE BENEFITS

Happy employees are productive employees, but different individuals require varying benefits with their remuneration package.

For example, Fred values a parking space close to work, but Mary prefers to have a bicycle, while Sid is attracted by a generous employer pension contribution.

If you offer Fred, Mary and Sid the same gross salary and allow them to sacrifice set amounts for the benefits they value, you could run into the tricky rules called optional remuneration arrangements (OpRA).

In essence, if employees forego some salary in order to receive a benefit, they are taxed on the amount of salary sacrificed rather than the value of the benefit.

There are exemptions from the OpRA rules for employer pension contributions and bicycles provided under a cycle to work scheme, which are both tax-free benefits. A parking space close to work is also a tax-free benefit but it is not exempt from the OpRA rules. Mary and Sid will enjoy their tax-free benefits but Fred will be taxed on the salary sacrificed for the tax-free parking space.

The solution is not to offer Fred the choice of salary or parking space, but instead offer him basic salary plus parking space, take it or leave it. His employment contract will have to be carefully drafted to make it clear that no option was available.

VAT: BREXIT REALITIES

Businesses which import or export goods will be aware of the difficulties that leaving the EU with no withdrawal agreement in place will cause them. However, other businesses will also be affected by immediate changes to the VAT system.

EU VAT REFUNDS

If you paid VAT on business expenses in another EU country during 2018 you would normally have until 30 September 2019 to reclaim that VAT. HMRC is urging all UK businesses to submit refund claims for EU VAT before 29 March 2019 as after that date any refund claims from UK businesses will have to be submitted directly to the tax authority of the country where the expense was incurred, rather than to HMRC.

VAT MOSS

From 1 January 2019 businesses with annual sales below £8,188 (€10,000) of digital services to non-business customers in other EU countries no longer have to report those sales and pay VAT under the VAT MOSS rules. However, this *de minimis* turnover threshold does not apply to non-EU businesses, which will be the position of UK businesses after 29 March 2019.

If your business continues to make sales of digital services to non-business customers in EU countries after 29 March 2019, you will have to reregister for VAT MOSS as a non-EU business in an EU country (ie not the UK) by 10 April 2019. This also applies if you did not deregister from VAT MOSS in January as your VAT MOSS registration will automatically be cancelled from 1 April 2019.

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MTD FACTS AND FICTION

All VAT registered businesses with annual taxable turnover exceeding £85,000 must comply with the making tax digital (MTD) rules for VAT periods beginning on and after 1 April 2019. However, a few businesses have been deferred until the period that begins on or after 1 October 2019. If you are in the latter group you should have received a letter from HMRC explaining this.

There are two requirements for MTD: to keep your VAT records in a digital format and to submit VAT returns using MTD compatible software. This is neither as complicated nor as difficult as it first seems; if you already record transactions on a spreadsheet or some form of accounting software you are already meeting the first MTD requirement.

If you currently use a spreadsheet based system you will need to buy some new MTD software to read the relevant VAT totals from the spreadsheet and submit them to HMRC as your VAT return. This type of bridging software is not expensive.

Your VAT software does not have to be cloud based and you do not need to keep your entire VAT accounting system on one software program.

Your VAT software does not have to be cloud based and you do not need to keep your entire VAT accounting system on one software program. As long as there are digital links between different pieces of software or spreadsheets, your VAT accounting system can be made up of several software elements.

Do not be bamboozled into upgrading to the latest version of your accounting software to allow you to submit VAT returns under MTD. Most accounting packages allow you to download the data into a spreadsheet format (CSV) which can be read by bridging software in order to submit the VAT return.

We can help you choose the most appropriate MTD software for your business. There are around 100 MTD compliant products already on the market and another 200 in development, so there is plenty of choice.

PENSION HEALTH CHECK

The month of March is a good time to review whether you have made sufficient pension contributions in the tax year, and to check whether you are in danger of exceeding your annual pension contributions allowance which would lead to a pension contributions tax charge.

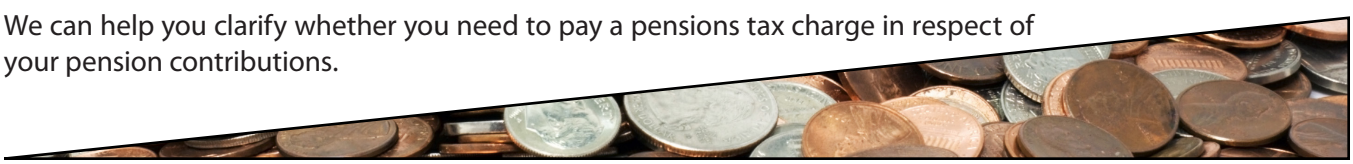
Your annual allowance is normally set at £40,000, expanded by any unused annual allowance from the previous three tax years. However, a lower money purchase annual allowance (MPAA) of £4,000 may apply if you have accessed your pension savings from a defined contribution (money purchase) pension scheme.

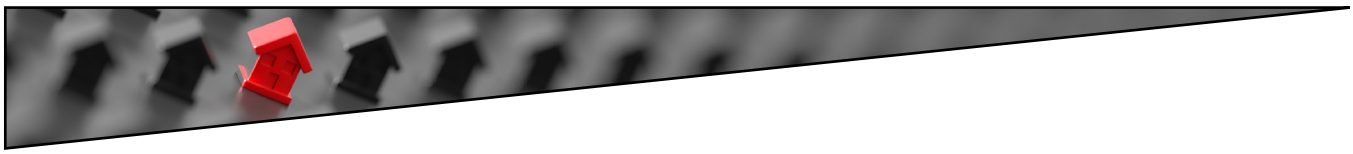
The MPAA does not apply if you took your benefits as:

- a small pot lump sum;
- a pension commencement lump sum where no pension income was taken; or
- income from a capped drawdown arrangement.

The MPAA is not expanded by unused annual allowance from earlier years and once the lower level of allowance is in place it cannot be removed. The MPAA was reduced from £10,000 to £4,000 on 6 April 2017, increasing the risk of exceeding the allowance in 2017-18 and later years.

We can help you clarify whether you need to pay a pensions tax charge in respect of your pension contributions.





TAX RATES AND DEADLINES FOR PROPERTY

NEW DEADLINES

The government has shortened the period for paying stamp duty land tax (SDLT) from 30 days to 14 days after the effective date for land or property transactions completed on or after 1 March 2019.

The deadline for submitting the land transaction return reporting the SDLT payable has also been advanced to 14 calendar days after the completion date, which does not allow much time to get the forms signed and submitted.

The government has shorterned the period for paying SDLT from 30 days to 14 days.

Beware of this new deadline if you are buying a property in England or Northern Ireland. The deadlines for paying land and buildings transaction tax (LBTT) for purchases in Scotland and land transaction tax (LTT) for purchases in Wales remain at 30 days from the completion date.

RATES

When a company buys a residential property for over £40,000 it must pay an additional 3% SDLT on the entire value. This supplementary rate also applies to buying a second home. If the property is not defined as 'residential' it is a commercial property and the extra 3% tax does not apply.

A derelict property which is in such a poor state that it is not suitable to be lived in at the time of purchase cannot be treated as a residential property for the purposes of SDLT. If you or your company buy a derelict home to develop you should not have to pay the additional 3% rate of SDLT on that purchase. This rule should also apply for purchases in Wales and Scotland, as LBTT and LTT have similar supplementary rates for purchases of second homes, although the additional rate of LBTT in Scotland increased from 3% to 4% on 25 January 2019.

NEW VAT RULES FOR BUILDING FIRMS

In just over six months, builders, contractors and other trades associated with the building industry will have to get to grips with a new way of accounting for VAT.

Essentially, building firms will be required to charge themselves VAT when they buy building related services from other firms. This is referred to as a 'reverse charge'.

EXAMPLE

Subcontractor A undertakes groundwork services for contractor B. Currently firm A charges VAT at the appropriate rate on the invoice it issues to firm B, B pays the VAT to A and A pays it to HMRC.

From 1 October 2019 under the reverse charge rules, subcontractor A issues an invoice to contractor B stating that its services are subject to a reverse charge, so A does not charge VAT. Firm B adds VAT to the cost of the work undertaken by A and includes this as output tax within its own VAT records. B claims the same amount of VAT on the same return as input tax, meaning there is no net payment due to HMRC.

This new reverse charge will not apply if contractor B is the 'end user' who will sell the newly completed building to the final customer. It also does not apply for transactions between connected companies (eg within a group of commonly owned businesses) or where the supplier and customer are landlord and tenant. If the services concerned would be zero-rated for VAT purposes, the reverse charge is not relevant.

To prepare for the reverse charge you should check whether your regular customers are VAT registered and record their VAT numbers. Also enquire whether your customer would be an end user in the supply chain.

We can help you check whether your accounting software will cope with this new reverse charge alongside the requirements for MTD which come into effect from 1 April 2019.

LIVE-IN WORKERS

Where it is necessary for a member of staff to live at his place of work, such as a housemaster in a boarding school, the provision of accommodation is not treated as a taxable benefit for the employee.

However, where it is only customary rather than necessary for a member of staff to live at or close to his workplace, the provision of accommodation will be a taxable benefit unless three conditions are met:

- the accommodation is provided for the better performance of the employee's duties;
- the employment is one in which it is customary for employers to provide living accommodation to a particular class of employee; and
- the employee is a representative occupier.

HMRC is paying particular attention to the customary test, which must be applied across the trade sector as a whole, not just to the specific employer. If fewer than half of employees in that type of employment are provided with living accommodation, provision of accommodation is not considered customary.

If you have staff who are not being taxed on employer provided accommodation, those arrangements should be reviewed without delay.

STRUCTURES AND BUILDINGS ALLOWANCES

The cost of acquiring your business premises may be written off in your accounts, but for many years those costs have been disallowed for tax purposes so there is no tax relief until you sell the building.

In October 2018 the government introduced a new structures and buildings allowance (SBA) to relieve the costs of constructing or altering buildings to be used for business purposes. The costs incurred are spread over 50 years with a flat 2% of the total cost deducted from profits each year. A claim can only be made when the building is brought into use for the trade.

If the building is sold within 50 years, the new owner claims the remaining costs at the same 2% flat rate. The previous owner does not receive a balancing allowance. To calculate the gain or loss on disposal, the SBA claimed is deducted from the construction costs of the building. This has the effect of reducing the base cost for capital gains purposes and increasing the tax payable on the sale of the building.

The SBA cannot cover the cost of acquiring land or constructing or altering residential properties. The contract for the building works must be entered into on or after 29 October 2018.

LOAN CHARGE

Sometimes past decisions can come back to haunt you. If you were persuaded to take a loan in place of part of your pay in the past and you have not repaid it, you may now be liable to pay a new tax called the loan charge.

This charge applies if you have not settled the amount of tax, penalties and interest owed in respect of the loan scheme you used. HMRC has been writing to those taxpayers who were involved in such schemes warning that the loan charge will be due on 5 April 2019.

If you have received such a letter you need to contact HMRC to reach a settlement before 5 April 2019. You will not have to pay all the outstanding tax in one go; HMRC will automatically offer you an arrangement to spread the payments over up to seven years if your current annual income is less than £50,000.

However, HMRC will charge forward interest of 4.25% on the outstanding amount, so it will be to your benefit to pay as quickly as possible. Any income tax you have already paid on the benefit-in-kind of having a low-interest or zero-interest loan should be deducted from the loan charge tax due.

We can help you negotiate a settlement with HMRC.