

TAX NEWSLETTER JANUARY / FEBRUARY 2015



Welcome to this month's Tax Newsletter. Budget 2015 will be delivered on 18 March 2015 and will be George Osborne's last chance to win votes for his party ahead of the General Election on 7 May.

As with the Autumn Statement, the Government is seeking the views of groups, individuals and representative bodies for consideration in advance of the Budget, and if you have something to say, email budget.representations@hmtreasury.gsi.gov.uk

Please do contact us if you would like more information on any of this month's articles.

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ASSESS IMPACT OF PENSION RULE CHANGES CAREFULLY

Big changes to pensions rules come into effect on 6 April, following others brought in last autumn. These put pension planning back on the agenda for many individuals.

What are the main changes?

First, all restrictions on the amount a person older than 55 can withdraw from their pension pots in cash are being removed. Pension holders will also have the discretion to do whatever they wish with the cash.

Also, those younger than 75 will also be able to pass on any unused pension savings to their beneficiaries free of Inheritance Tax (IHT), compared to the current regime under which the tax-free element applies only where the residual pension fund passes to a surviving spouse.

For example in future a pension could be left to a surviving spouse and then to children or grandchildren.

The legislation containing the reforms is the Taxation of Pensions Act 2014, which received Royal Assent in December 2014. The aspects relating to pension fund death benefits came into effect on 29 September, the remaining reforms will take effect from 6 April of this year.

What has not changed?

- No change to the annual allowance (the maximum pension contribution on which an individual can claim tax relief, currently £40,000 a year)
- No change to the lifetime allowance – maximum value of pension benefits that an individual can amass, tax free, during their life, currently £1.25m and more for those with transitional relief.
- No change to the potential tax charge of up to 55% that can be applied to benefits amassed in excess of an individual's lifetime allowance, nor to the test against the allowance at age 75.
- No change to the minimum age at which pension benefits can first be taken (55), nor to the maximum 25% that an individual can receive from their pension fund tax-free.
- No change to rules allowing individuals to carry forward any unused relief (on pension contributions) for up to three preceding tax years. So someone who has not made any pension contributions in last three years could make a maximum contribution before 5 April of £190,000.
- No change to the way in which money drawn from a pension fund (in excess of first 25% income-tax free) is taxed (ie at individual's marginal income tax rate).

How might the new rules affect me?

The effective removal of pension funds from IHT is perhaps the most significant reform to pensions in a generation. This, combined with the ease with which tax relief can be lost, means that individuals will need to seek advice from a pension specialist.

The pitfalls include so-called 'trigger events', such as taking income from a pension, for the first time, on or after 6 April 2015.

This can result in the reduction to the individual's annual allowance (on which they can claim tax relief on pension contributions) from £40,000 to £10,000 a year and the loss of any unused relief.

For an individual who was intending to maximise their pension contributions, for say 10 years, this could cost them up to £193,000 in lost tax relief.

The changes also introduce 'anti-avoidance' rules to prevent individuals over the age of 55 from taking pension contributions in lieu of pay, thereby avoiding paying National Insurance.

How should I decide what to do?

Those currently younger than 50 have time to consider the changes. However, those approaching 55, especially those with various 'deferred' pensions, should seek advice before taking any action, because almost all decisions made on taking benefits from pension funds are irrevocable.

Many looking to take advantage of the new rules will need to carry out remedial work to existing pension arrangements. The structure of many older pension policies makes it difficult to make the most of the new rules, in particular in relation to the payment of death benefits to family members.

Will the changes affect my dependents or beneficiaries?

Yes - apart from introducing the ability to pay out IHT-free residual pension fund amounts to people other than a surviving spouse, the new rules mean that pensions could become an important part of wealth planning for many families. One aspect of this could be the management of pension funds for tax-efficient funding of school and university fees.

Many ways of working pension contributions

Not only can you pay contributions to your pension fund, other family members can too.

Provided you have enough earnings, these family pension contributions are a useful way to help keep income below £50,000 (the point at which entitlement to child benefit is reduced). You then retain full child benefit entitlement where you do not have the funds spare to pay into your own pension pot.

These contributions also have the added benefit of saving your family member inheritance tax, either by being a gift out of normal income, or by being within the annual exempt amount.

For example, say you have taxable income of £60,000 and received child benefit for four children, totalling £2,449. If your parents paid £8,000 into your pension fund (which with tax relief would be grossed up in your fund to £10,000), your adjusted income falls to £50,000, meaning no clawback of child benefit, saving you total tax of £4,449. This will save £3,200 in IHT on your parents' estate, so a cash outlay of £8,000 can save a family tax of £7,649.

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STRONG DEMAND FOR NATIONAL SAVINGS 'PENSIONER BONDS'

The National Savings & Investments website and helpline are experiencing a high volume of enquiries following the launch of their 65+ Guaranteed Growth Bonds which are being referred to as 'pensioner bonds'.

The bonds are available for a period of one or three years. The taxable bonds offer savers interest of 2.8% over one year and a fixed annual interest rate of 4% over three years with a minimum investment of £500. Investors are restricted to a maximum investment of £10,000 in each of the two products offered.

The new bonds cannot be held within a New Individual Savings Account (NISA) and only pay interest at the end of the savings term. Where investors cash in their investment early, a penalty equivalent to 90 days' interest will be applied.

Internet link: [NS&I bonds](#)

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ISA DEATH BENEFITS

ISAs currently lose their beneficial tax status when the owner dies, becoming savings for any beneficiary who, if they want to reinvest the funds in their own ISAs, will be restricted by their own annual investment limits to cover the subscriptions.

However, under new rules expected to come in from 6 April 2015, ISAs may essentially retain their tax free status where they are passed to a spouse or civil partner of an individual who dies on or after 3 December 2015. The ISA value will be added to the spouse's normal ISA subscription limit provided the funds or non-cash assets are reinvested in qualifying ISAs within a prescribed time limit.

HMRC is seeking comments on the draft Regulations by 20 February 2015.

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2015 TAX CODES

TaxAid have provided some useful advice on changes to be aware of in PAYE tax codes, for the tax year beginning on 6 April 2015, which are in the process of being issued by HM Revenue and Customs (HMRC).

Personal Allowance

From 6 April 2015, the personal allowance rises to £10,600, giving a basic tax code of 1060L.

Transferrable Allowances Between Couples

From 6 April, 10% of the personal allowance will now be transferrable between couples in certain circumstances. For example, neither of the couple can be a higher rate tax payer and they also need to be married/civil partners. A claim will need to be made online although the system is not yet up and running.

This means the coding notices being issued now for 2015/16 will not include the adjustment although a claim may be made later in the year. The partner receiving the allowance will gain an additional £1,060 of tax free pay and will have a code letter of "M", rather than the usual "L". The partner giving up the allowance will lose £1,060 of tax free pay and will have a tax code letter of N instead.

Coding Out of Debts

A further change is to the amount of HMRC debt that can be included in a PAYE tax code for someone earning more than £30,000 a year. Those earning £30,000 a year or less will continue to be able to have debts of up to £3,000 collected from their pay. For every £10,000 of additional earnings, the amount of debt that can be included in the tax code will rise by £2,000 to a maximum of £17,000 for earnings of £90,000 a year or more.

Possible Errors

Always check your tax code for:

- Work expenses, which might include flat rate deductions for items such as laundry or professional subscriptions.
- Benefits in kind, such as company cars and medical insurance etc. Please note that if the benefits are now "pay-rolled", the benefit will be taxed as part of your normal pay and no adjustment is therefore needed to your PAYE code. This change comes in from April 2015 and may not always be dealt with correctly.
- Week/month one tax codes – HMRC will no longer tell employees if their tax code is being operated on a week one or month one basis which could mean that you pay too much tax, particularly if you are new to employment part way through the year after perhaps having been a student or taking a career break.

If you would like any help with your coding notices in checking whether these are correct, please do get in touch.

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FINAL REPORT FROM IR35 FORUM

The IR35 Forum was established in 2011, following a review by the Office of Tax Simplification which concluded that IR35 should either be suspended, with a view to abolishing the legislation, or retained but with an approved administration. Rather than suspending IR35, HMRC implemented a new approach to administering it in partnership with the IR35 Forum in 2012. The final report published on 5 January 2015 looks at how effective the new approach has been and identifies areas for further improvement.

HMRC's responses included commitments for:

- Continuing to update the IR35 guidance pages on GOV.UK and updating links to it from other pages.
- Making sure that the withdrawal of the Business Entity Tests from 6 April 2015 is widely publicised.
- Addressing confidentiality concerns about the Contract Review Service by looking at providing guidance and support in line with other helplines and other statutory clearances.
- Looking for opportunities to raise awareness amongst specific industries where there is a rapid growth in

personal service companies, for example in oil and gas.

- Providing clients with an agenda for meetings and amending its guidance to embed this as best practice.

For the full report, please [click here](#).

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RESEARCH & DEVELOPMENT CHANGES

In the 2014 Autumn Statement George Osborne announced that Research & Development relief (R&D relief) for small and medium enterprises would further increase from 225% to 230% from 1 April 2015.

However, not so welcome was the detail hidden in the press release that relief would no longer be available on the cost of materials used in any R&D process. This will significantly reduce many claims made by SMEs and reduce the value of any claims.

In a further blow, the R&D Consultative Committee has recently announced that reimbursed expenses paid to employees would no longer fall within the definition of qualifying staffing costs for the purposes of any R&D claims. This means that staffing costs will be restricted to contractual costs other than benefits in kind, which will essentially cover a salary, employer's national insurance and any employer pension contributions made.

Reimbursing costs incurred by employees, such as travel and subsistence, used to give a valuable increase to any claims made under the R&D relief and again, SMEs may see their claims falling now.

Despite the changes, R&D relief still remains a valuable relief for businesses and if you would like to discuss the potential of making any claim, please do get in touch.

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HORSEBOX OWNERS TARGETED BY HMRC

Horsebox owners are to be the subject of investigation by HMRC as it continues its clamp down on tax evasion.

It is believed that HMRC suspect some farmers and rural business owners of buying horseboxes through companies and falsely claiming the cost as a business expense for tax purposes. Alternatively, businesses may be failing to declare personal 'private use' of the horsebox, or declare a benefit in kind.

HMRC can use their intelligence system, Connect, to gain information and cross reference this to individual or company tax records. HMRC uses DVLA databases and even Google Streetview to monitor the lifestyle of suspects.

Zara Phillips' 2012 Olympics horsebox reportedly cost £500,000 and so the tax at stake can be substantial. If you own a horsebox and want to make certain you are getting the tax treatment right, please do get in touch.

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BENCHMARKING PILOT – GARAGES AND FURNITURE RETAILERS

HMRC have already run pilots looking at net profit ratio benchmarks for painters and decorators, driving instructors, taxi drivers and pharmacists for income tax purposes. HMRC is now set to run a final pilot looking at VAT benchmarking focussing on the maintenance and repair of motor vehicles and retail furniture sale sectors.

HMRC will now write to around 7,500 businesses and the idea is to test whether publishing benchmarks for VAT will help a customer identify any mistakes they may have made on their VAT return and complete it correctly.

The letters invite the business to review its gross profit percentage mark up in VAT terms over a 12 month period and to then compare this with what HMRC regard to be an industry standard. If the business' percentage is outside

of the suggested benchmark, the business owner is encouraged to review the position to ensure that the return has been completed correctly and that no sales have been omitted or expenses over claimed.

Whilst the letters do not require any response, they are not copied to any agents and are likely to generate concern among tax payers. If you receive such a letter and you would like to discuss this further, please do get in touch.

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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.

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.'

Internet link: [News](#)

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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.

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.

If you would like help with auto enrolment please do get in touch.

Internet links: [Gov](#) | [Press release](#)

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PROPERTY INCOME AND CLASS 2 NIC

Property income and Class 2 national insurance contributions (NIC) are not normally two things that go hand in hand. Income from property tends to be regarded as investment income rather than earned income and is therefore not chargeable to NIC.

Several individuals have recently received letters from HMRC implying that they are in fact liable to Class 2 NIC on their property income profits on the basis that the rental activities represent 'gainful employment'.

A questionnaire is provided by HMRC which asks various questions about the individual's 'involvement' in the property letting 'business'. This is not a statutory form and there is no obligation to complete this.

It could be tempting for landlords who only have rental income to pay the Class 2 NIC as this is a relatively cheap way of gaining an NI record for entitlement to state benefits. However, there is some concern over whether HMRC would actually keep their end of the bargain. In the case of *Rashid v Garcia*, Mr Rashid had paid class 2 contributions on his rental income and wanted to claim incapacity benefit. HMRC had been happy to accept the payments but later changed their mind when he claimed the associated benefits and said that he was never entitled to make them in the first place.

From April 2015 class 2 NIC will be collected on the same basis as class 4 NIC which will mean no contributions will be collected on rental income. This is because Class 4 NIC is payable on profits from a 'trade' which is more narrowly defined. This leaves HMRC with a narrow window of opportunity between now and April.

If you have received a similar letter from HMRC, or think you may have been paying Class 2 NIC unnecessarily, please do get in touch.

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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.

Internet link: [fit-for-work-employers-guide](#)

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ACCELERATED PAYMENT NOTICES

HMRC have announced that they have secured almost all of the disputed tax due from the first group of tax avoidance scheme users to receive Accelerated Payment notices (APNs). An APN forces the taxpayer to make payment to HMRC of tax currently under dispute within 90 days of being issued with a notice. APNs are being introduced to counteract the perceived cash flow advantage for the taxpayer of holding onto the disputed tax during an avoidance dispute.

Approximately 30 scheme users were advised in August 2014 that they had 90 days to pay a total of around £29 million of disputed tax upfront under the new Accelerated Payments regime.

HMRC have announced that over 99% of this money was paid within the deadline, with several payment arrangements also in place. HMRC have received £32 million in disputed tax to date.

Financial Secretary to the Treasury David Gauke said:

'The high success rate for the first set of Accelerated Payments notices shows avoidance scheme users are having to face up to the reality that they should pay their tax upfront, like the vast majority of taxpayers.'

'As we move into 2015 and HMRC ramps up the number of notices it sends out, thousands more will get the message that Accelerated Payments has changed the economics of tax avoidance.'

Jennie Granger, Director General for Enforcement and Compliance, HMRC, said:

'These results show HMRC is making good progress in tackling marketed tax avoidance. If anyone is concerned about being able to pay an Accelerated Payment notice, they should contact us as soon as possible to discuss their options.'

Internet link: [Gov news](#)

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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.'

The guidance reiterates that HMRC emails and texts will not request any personal, financial or payment information.

Phishing emails tend to contain spelling mistakes and poor grammar. Other tell-tale signs include incorrect 'From' addresses, requests for personal information, request for urgent action, links to bogus webpages and attachments containing viruses.

If you have received correspondence from HMRC and you are uncertain whether this is genuine, please get in touch.

Internet link: [HMRC examples](#)

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HMRC FAIL TO ANSWER CALLS

A recent assessment carried out by consumer organisation Which? found that 29% of callers to HMRC helplines

were cut off before the caller got through to an advisor. On average, callers were kept waiting 18 minutes. It also reported that callers had some difficulty in using HMRC's voice recognition service.

The survey was carried out after Which? received complaints from its members about difficulties in contacting HMRC. Which? then made 100 calls to HMRC.

This test goes to show that HMRC's tax helplines are still performing poorly. Waiting times tend to be shortest early in the day so try to avoid calling in the afternoon or evening.

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