

## TAX NEWSLETTER SEPTEMBER 2015



Welcome to this month's eNews in which we take another look at the changes being made to the taxation of dividend income from April 2016, following the release of guidance on this from HMRC over the summer. Please also take time to check the changes to the VAT advisory fuel rates for cars given the recent fuel price drops.

Please contact us if you would like further help or advice.

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## TAXING DIVIDENDS FROM APRIL 2016

As previously reported, fundamental changes are to be made to the taxation of dividend income from April 2016:

- Dividends will no longer be 'grossed up' by a notional tax credit, meaning you will be taxed on the actual dividend payment made to you;
- The first £5,000 of dividend income will be exempt from tax;
- The effective tax rates on dividend income will increase from 0%, 25% and 30.6% to 7.5%, 32.5% and 38.1% for basic rate, higher rate and additional rate tax payers respectively.

This will increase the tax cost of dividend income for many taxpayers, in particular for business owners trading through limited companies, and this is all despite the Conservatives 'tax lock' pledge.

HMRC did not issue any draft legislation or guidance notes on how the new rules might work until recently and an extract from the HMRC Factsheet states:

*'From April 2016 you have to apply the new headline rates on the amount of dividends you actually receive, where the income is over £5,000 (excluding any dividend income paid within an ISA).*

*The Dividend Allowance will not reduce your total income for tax purposes. However, it will mean that you don't have any tax to pay on the first £5,000 of dividend income you receive.*

*Dividends within your allowance will still count towards your basic or higher rate bands, and may therefore affect the rate of tax that you pay on dividends you receive in excess of the £5,000 allowance.'*

This means that you will include and report all dividend income before deducting your personal allowance to arrive at your taxable income figure, with an allowance then being given for the first £5,000 of dividends to be free from tax. Whilst higher rate tax payers will be better off if their dividend income is only £5,000, similar basic rate tax payers will be unaffected. Anyone receiving more than £5,000 in dividends, with other income of at least £11,000, will be worse off under the new measures.

**Internet link:** [Factsheet](#)

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## THE END OF TAX MOTIVATED INCORPORATION?

The Summer Budget 2015 contained some key measures that were a thinly veiled attack on small business owners. [See Taxing Dividends from April 2016.](#)

One-man companies will be severely affected by the new dividend changes. Those following the traditional advice of taking a notional salary and topping up to the basic rate band with a dividend will see their tax bill increase by around £1,800 (see example) - enough to trigger payments on account.

### Example

John draws a salary of £8K per annum, and dividends of £31,500 (equivalent to £35,000 when the 10% notional tax credit is added) from his personal company. His tax position under the current and proposed rules will be:

	Current	Proposed
Salary	8,000	8,000
Dividends	35,000	31,500
Personal allowance	(11,000)	(11,000)
Taxable income	32,000	28,500
Dividend allowance		(5,000)
Dividends taxable at 0% and 7.5%	32,000	23,500
Tax on dividends	0	1,762

**Employment allowance.** In a second swipe at micro companies, despite increasing the Employment Allowance from £2,000 to £3,000 from April 2016, which reduces the NI liability for businesses, it was also announced that companies will no longer be able to claim this from April 2016 where its director is the sole employee of the business.

**Goodwill amortisation.** Finally, the announcement that there will be no allowable deduction for the cost of purchasing the goodwill element of another business or trade from 8 July 2015 will affect companies that buy the trade of small competitors or retiring persons.

Given the many changes ahead, a tax driven incorporation might be less likely for many smaller businesses, although there are still significant immediate tax savings to be had where the owner does not need to draw all profits from the company. For those already operating through a limited company, it is vital that you take advice now and use the current regime regarding dividends as far as possible ahead of April 2016. Companies with lower profits may even need to consider disincorporating, as the reduction in tax savings may now mean the additional compliance costs simply aren't worth it, although it is also important to bear in mind that there are often vital commercial reasons for trading through a company, as well as certain tax reliefs such as research and development relief and sideways loss relief for property businesses only being available to companies, and so each case will need to be considered on its own merits.

If you would like us to review your position, please do get in touch.

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## PETITION AGAINST LANDLORD TAX CHANGES

The Chancellor announced a number of tax changing measures for residential property landlords in his recent Summer Budget, one of which is the restriction of tax relief on interest payments to basic rate tax only, which will see some landlords, in effect, paying tax on property losses.

The measures were advertised as removing tax relief for higher rate taxpayers, leading many basic rate payers to wrongly think they will not be affected, with the loss of relief actually moving them into the higher rate tax bracket as well. [See Losing interest in residential property lets](#)

An online petition has been set up against the proposed tax changes and now has more than 26,700 signatures – it will need at least 100,000 signatures if it is to be debated in Parliament.

The changes, which Mr Osborne said will address “unfairnesses in property taxation”, will be phased out from 2017.

If the changes will adversely affect you and you believe the changes are unfair, then the online petition may be found [here](#).

Update: We understand from an article in AccountancyLive that the petition to force a one off parliamentary debate will fail as the Government have announced that the issue is already under discussion as part of current consideration of the Finance Bill. A newly formed Petitions Committee, set up following the Election, has said it will not recommend that the matter should be discussed separately following its committee meeting held on 8 September.

Anyone signing the petition will receive an automated message advising them that the issue is currently being looked at in Parliament.

It will therefore be interesting to see if debate will bring any changes to the proposals.

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## GARDEN GAINS

Based on a conversation I had earlier this week with a lady seeking free tax advice, everyone seems to know they can sell their own homes free from capital gains tax (CGT), together with its garden or grounds (to a reasonable extent). This exemption can also apply if part of the garden is sold as a building plot before the house itself is sold.

However, it is crucial that such disposals are properly considered and that the land to be sold does fall within the defined exemption. For example, if the land is claimed to be part of the garden, then HMRC will expect it to be in use as such at the date it is sold, which for CGT purposes is the date the contracts are exchanged. Further, the land should in fact be part of the property's garden and used as such.

The first point was explored in *Dickinson v HMRC*, when the final contract was delayed due to a fault by the solicitor. In the meantime, the area to be sold had been fenced off and some ground works commenced. Mrs Dickinson retained the CGT exemption in that case, but other taxpayers have not been so lucky.

Another appellant, Mrs Fountain, failed to persuade the Tax Tribunal that the CGT exemption should apply to a building plot (plot 2) which was close to, but not adjacent to, her new home which had been built on another plot. Mrs Fountain claimed that plot 2 had been used as hard standing for their caravan, but did not support her statement with any other evidence, such as pictures.

Plot 2 was separated from her home by plot 3, which had been gifted to Mrs Fountain's son three years previously. There was no direct access from her home to plot 2, and no evidence that plot 2 had been cultivated as a garden, as it had been levelled and covered with hard-core. It is not essential that the garden and the house are adjacent to each other. HMRC recognise that in some circumstances the two areas may be separated, perhaps by a right of way (see CG64367), but the owners need to show that the garden or grounds are used with the house.

As can be seen, careful planning is required if you are to rely on the main residence garden exemption, and if we can help with any disposal, please do get in touch.

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## NATIONAL MINIMUM WAGE RATES AND NATIONAL LIVING WAGE

The National Minimum Wage (NMW) is a minimum amount per hour that most workers in the UK are entitled to be paid. NMW rates increases come into effect on 1 October 2015.

From 1 October 2015:

- the adult rate will increase by 20 pence to £6.70 per hour
- the rate for 18 to 20 year olds will increase by 17 pence to £5.30 per hour
- the rate for 16 to 17 year olds will increase by 8 pence to £3.87 per hour
- the apprentice rate will increase by 57 pence to £3.30 per hour.

Employers also need to be aware that from April 2016, the government will introduce a new mandatory National Living Wage (NLW) for workers aged 25 and above. This will initially be set at £7.20 which is a 50p increase in the adult rate of NMW coming into force in October 2015. This represents an increase of in excess of £1,200 per annum in earnings for a full-time worker on the current NMW.

The NMW will continue to apply for those aged under 25. The government has issued further details of the new NLW policy.

### Penalties

Penalties may be levied on employers where HMRC believe underpayments have occurred and HMRC may 'name and shame' non-compliant employers.

Please contact us if you would like help with payroll issues.

Internet links: [Press release](#) | [NLW policy](#)

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## ATED UPDATED PROCEDURES

Since 2013 a range of measures have been introduced to discourage the holding of residential property in the UK via companies, partnerships and collective investment schemes. In summary, these measures are:

- Stamp Duty Land Tax (SDLT) - now payable at 15% on the acquisition on or after 20 March 2014 of properties costing more than £500,000
- Annual Tax on Enveloped Dwellings (ATED) - applied at a fixed amount depending on value and
- Capital gains tax (CGT) - now payable by companies at 28% on a proportion of gains for the period that the property has been subject to ATED.

There are specific reliefs and exemptions for certain types of properties.

### Changes in limits

Prior to 1 April 2015 the lower property value threshold for ATED was a value of more than £2m on 1 April 2012, or at acquisition, if later. With effect from 1 April 2015, residential properties valued at more than £1m and up to £2m on 1 April 2012, or at acquisition if later, were brought into the charge.

From 1 April 2016, another new valuation band comes into effect for properties valued at more than £500,000 but less than £1 million, bringing many more properties into the scope of the new rules than before.

The threshold for ATED-related CGT disposal consideration has also reduced from £2m to £1m from 6 April 2015 and will further reduce to £500,000 from 6 April 2016.

### ATED Procedures

ATED is reported and the tax paid through an annual return. The return periods run from 1 April to 31 March each year.

Normally an ATED return must be made within 30 days of the date on which the property first comes within the charge to ATED for any chargeable period. Where the property is within the scope of ATED on 1 April each year, the return must be filed by 30 April in the year of charge. Payment of the tax is due with the return.

There is a special rule for properties coming within the scope of ATED from 1 April 2015 under the lower threshold of £1m detailed above. The rule is that returns for the chargeable period beginning 1 April 2015 must be filed by 1 October 2015 if the property was held on 1 April 2015 or within 30 days of acquisition if this is later. Payment of the tax is due 31 October 2015.

The chargeable person must submit an ATED return for any property that is within the scope of ATED for the relevant chargeable period. There are reliefs available which may reduce the liability in part or to zero. However, all claims for reliefs must be made in a new 'relief declaration return' and these new returns to claim relief have now been made available.

Returns for properties falling within the lower band of £500,000 are due for the chargeable period 1 April 2016 to 31 March 2017. The normal filing dates apply to properties within this new band. For example, if you hold a property valued at more than £500,000 on 1 April 2016, you must file your return and pay the tax by 30 April 2016.

### Returns

In addition, a new 'relief declaration return' is introduced. Broadly, for each type of ATED relief being claimed, the company can submit a relief declaration return stating that a relief is being claimed in respect of one or more properties held at that time. No details are required of the individual properties or the number of properties eligible. Where a property is acquired in-year which also qualifies for the same type of relief, the existing return is treated as also having been made in respect of that property.

A normal ATED return will still be required in respect of any property which does not qualify or ceases to qualify for a relief i.e. where tax is due.

ATED and the reliefs available are a complex area. Please contact us if you would like specific advice.

**Internet links:** [ATED relief declaration returns](#) | [ATED](#)

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## HMRC TARGETS WEALTHY 'TAX CHEATS' IN SCOTLAND

A taskforce which aims to tackle wealthy 'tax cheats' who are living beyond their means in Scotland has been launched by HMRC.

HMRC is identifying individuals with 'badges of wealth' such as large houses, investments, aeroplanes, boats and undeclared offshore bank accounts which are not in keeping with the information they report to HMRC.

HMRC expects the taskforce to recover nearly £4.5million. It will bring together specialist officers from across HMRC to identify wealth indicators and cross reference them with the data HMRC holds about their owners.

HMRC's Michael Connolly, HMRC Taskforce Lead in Scotland, said:

*'HMRC's intelligence shows that people being targeted by this taskforce have no intention of playing by the rules. They are deliberately failing to declare all their income to HMRC in a crude attempt to line their own pockets, and they will be investigated.'*

*As a result of this behaviour, they could end up facing a heavy fine or even a criminal conviction. Those who pay the tax they are supposed to have nothing to worry about.'*

*Using information we hold, we can target people whose lifestyle does not reflect the tax they are paying. It's not fair that a small minority are living millionaire lifestyles as a result of not paying the tax they owe.'*

**Internet link:** [Press release](#)

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## AUTO ENROLMENT 'ENGAGEMENT' AND CALCULATION TOOL

The Pensions Regulator ('TPR') has announced that following consultation they will develop a basic automatic enrolment tool. The basic tool should be available to download from TPR's website by the end of 2015.

TPR consulted earlier this year on proposals to develop a basic tool to support those employers who use HMRC's Basic PAYE Tools (BPT) to carry out their payroll function. HMRC's BPT are used by many small employers to calculate PAYE, national insurance contributions and statutory payments such as Statutory Maternity Pay but has no pension function.

According to the TPR approximately 200,000 small and micro employers who use BPT are due to stage over the next two and half years and TPR's experience indicates that using appropriate software either through payroll or pension provider systems helps employers to comply with their duties.

The majority of consultation responses were supportive of the TPR's proposal, although some payroll firms and pension schemes were against the regulator developing a new tool.

TPR has also issued the third edition of 'Automatic enrolment: Commentary and analysis', which reports on the impact of automatic enrolment and the increasing participation in workplace pension schemes. The commentary states:

- By March 2015, over 5.2 million workers had been successfully automatically enrolled since the reforms began in 2012, an increase of more than 2.2 million workers from 2014, and 4.2 million from 2013.
- Automatic enrolment is helping to turn around the decade-long decline in pension provision, with 59% of all employees now active members of a pension scheme, compared with just 47% in 2012. This increase suggests that pension saving is now becoming the norm.

- The pensions landscape has been transformed as the majority of people are enrolled into defined contribution schemes. We have witnessed the growth in master trusts – 94% of employers who chose a trust-based scheme opted for a master trust.
- We now expect that significantly more employers will be subject to automatic enrolment duties than originally anticipated, mainly due to an increase in the number of new companies that have started up, and fewer going out of business than was forecast. We have revised the staging profile accordingly, so that it reflects the 1.8 million employers we expect to help through the automatic enrolment process from now until 2018.

If you would like help with your payroll or advice on Pensions Auto Enrolment please do contact us.

**Internet links:** [Press release](#) | [Commentary](#)

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## ADVISORY FUEL RATES FOR COMPANY CARS

New company car advisory fuel rates have been published which took effect from 1 September 2015. Due to the reduction in fuel prices many rates have reduced this quarter so please take care to update your expenses payments. However, 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 September 2015 are:

Engine size	Petrol
1400cc or less	11p
1401cc - 2000cc	14p
Over 2000cc	21p

Engine size	LPG
1400cc or less	7p
1401cc - 2000cc	9p
Over 2000cc	14p

Engine size	Diesel
1600cc or less	9p
1601cc - 2000cc	11p
Over 2000cc	13p

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.

**Internet link:** [Advisory fuel rates](#)

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**Tracey Watts, Tax Partner**

**T: 01823 286096 E: [tracey.watts@albertgoodman.co.uk](mailto:tracey.watts@albertgoodman.co.uk)**



**Tara Hayes, Tax Manager**

**T: 01823 286096 E: [tara.hayes@albertgoodman.co.uk](mailto:tara.hayes@albertgoodman.co.uk)**

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