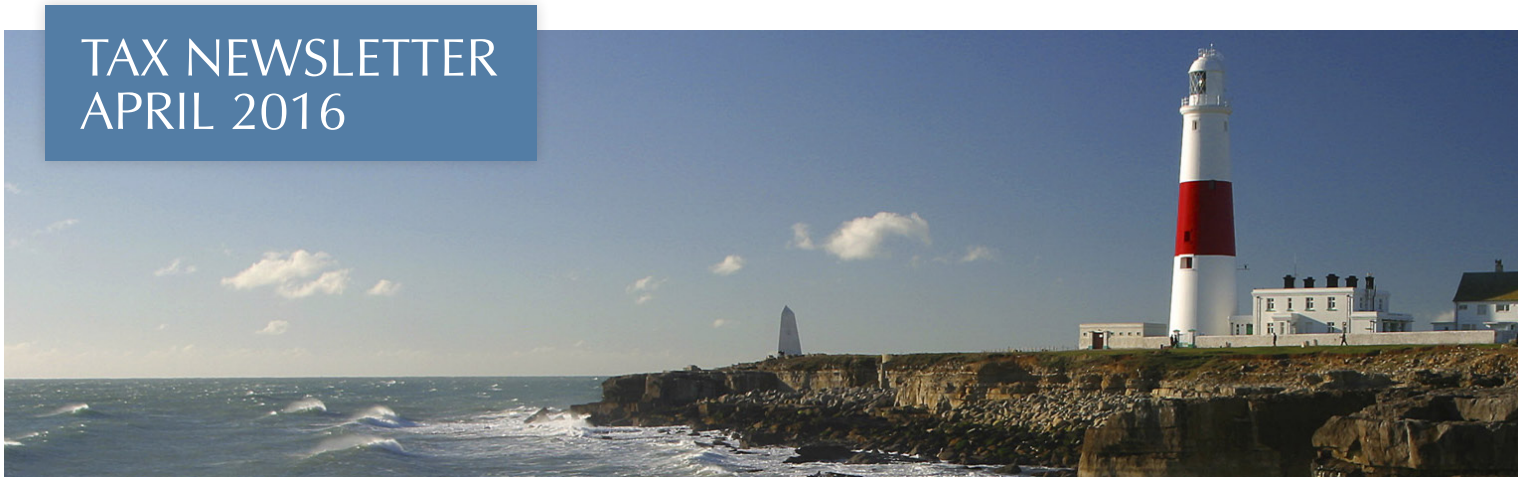
ALBERT GOODMAN

TAX NEWSLETTER APRIL 2016



Welcome to this month's eNews, and a Happy New Tax Year to you all!

The new year was kicked off by Mr Cameron evading questions on tax avoidance, which of course continues the debate on what is acceptable tax planning, and what is not. I'm sure the debate will rage on, or I'll eat my (Panama) hat!

In this month's eNews we take a look at the new recently introduced rules surrounding 'People with Significant Control' (PSC) and what this means for companies and LLPs. In addition, we look at some of the tax implications of divorce as well as the new tax free personal savings allowance.

If you missed our coverage from the Budget last month, you can catch up with all the announcements here by reading our Budget Summary.

Please do get in touch if you would like any further guidance on any of the areas covered.

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REGISTER OF PEOPLE WITH SIGNIFICANT CONTROL

Register of people with significant control

From April 2016, rules are introduced which require companies and LLPs to keep a register of People with Significant Control (PSC). In addition, the details of PSC will have to be filed with Companies House from 30 June 2016.

A PSC is defined as an individual that:

- holds, directly or indirectly, more than 25% of the shares or voting rights in the company; or
- holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company; or
- has the right to exercise, or actually exercises, significant influence or control over the company; or
- where a trust or firm would satisfy any of the above conditions, any individual that has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

The details of the individuals which need to be entered on the register include:

- name and address
- usual residential address, country of residence and nationality
- date of birth
- date when they became a PSC
- the nature of their control over the company.

Failure to comply with the requirements of the PSC regime could lead to the company, directors, or identified PSCs committing a criminal offence. The company and its directors could face a fine or imprisonment or both. What is not helpful, is that the term significant influence is not defined in the legislation.

Further guidance can be found on the Companies House website or please contact us for more guidance in this area.

Internet link: Companies House

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DON'T LET TAX ADD TO YOUR DIVORCE TROUBLES

An article published in The Telegraph at the end of last year claimed that the divorce rate is at its lowest level in 40 years. However, divorce is still something that we encounter on a regular basis and couples should be aware of the tax implications of deciding to go their separate ways. This can be a very traumatic time for those involved, and tax is probably the last thing on anyone's mind at that point, but no one wants an unexpected tax liability after the assets have been divided.

Capital gains tax

Married couples are able to transfer assets between them at no gain/no loss for CGT purposes. During the tax year of permanent separation, this can continue until 5 April. It is clearly beneficial to separate just after 6 April to allow a full year to arrange transfers between the parties but this is unlikely to be a key factor when deciding to part.

Transfers after the tax year of separation are deemed to take place at market value, even if no cash is paid between the parties, which could result in some CGT becoming payable.

There are certain exemptions relating to the transfer of the family home, and relief may be due for the transfer of some business assets, but advice should be taken on a case by case basis.

Inheritance Tax (IHT)

Transfers between spouses made prior to the final annulment of the marriage are exempt from IHT.

Wills should be updated following separation to reflect the change in circumstances and, where any trusts have been set up, it is also worth reviewing whether any changes are needed to trustees and beneficiaries.

Stamp Duty Land Tax

From 1 April 2016 the additional 3% stamp duty rate applies for the purchase of additional properties and this may have an unexpected impact on separating couples. If one party to the marriage leaves the family home and buys a new place to live, they will pay the extra charge unless they are separated under a court order or deed of separation.

As you can see, the timing of events can lead to potential tax liabilities and it is always sensible to seek tax advice before any transactions are undertaken. Please do get in touch if you would like to discuss your individual circumstances.

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TAX FREE SAVINGS

The new personal savings allowance (PSA) will be effective from 6 April 2016 and will allow basic rate taxpayers to receive up to £1,000 of savings income tax free. For higher rate taxpayers this limit is reduced to £500.

This means that banks and building societies will stop deducting tax from interest credited to your accounts and most people will no longer pay tax on savings interest.

The following types of savings will be covered by the new allowance:

- Interest received on bank and building society accounts
- Interest from providers such as credit unions or NS&I
- Interest distributions from authorised unit trusts, open-ended investment companies and investment trusts
- Income from government or company bonds
- Most types of purchased life annuity payments

The allowance will be given automatically so there is no need to make a claim. If you are a basic rate taxpayer and have savings income or interest in excess of £1,000, you will have to pay some tax on this. HMRC will normally collect this by changing your PAYE code. The banks and building societies will provide the relevant information to HMRC to allow them to do this although it may be worth checking they have this correct. If you complete a self-assessment tax return then the tax can be collected through the tax return in the normal way.

If you have any queries about how the PSA will apply to your circumstances then please get in touch.

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PERSONAL SERVICE COMPANIES IN THE PUBLIC SECTOR

From April 2017, individuals working through their own company in the public sector will no longer be responsible for deciding whether the intermediaries legislation applies and for paying the relevant tax and NIC. This responsibility will instead pass to the public sector employer, agency or third party that pays the worker's intermediary. The employer, agency or third party will have to decide if the rules apply to a contract and if so, account for and pay the liabilities through the Real Time Information (RTI) system and deduct the relevant tax and NIC.

HMRC has announced they will provide help for public sector employers and agencies with their new responsibilities.

They plan to introduce clear, objective tests for employers to use to decide at the point of hire whether or not they need to consider the new rules and then identify those engagements that are caught by the rules.

For cases that are less clear cut, HMRC have announced that they will develop a simple digital tool. This will be designed to provide employers engaging an incorporated worker with a 'real-time' HMRC view on whether or not the intermediaries rules need to be applied.

Chris Bryce, Chief Executive of the Association of Independent Professionals and the Self Employed (IPSE), commented:

'The Chancellor announced a number of measures today which are likely to impact independent professionals and the self-employed. His move to extend rules for off-payroll working in the public sector will create confusion and disruption. The engaging department or agency will be made responsible for any tax liability. This will result in genuine businesses having to jump through numerous hoops and will see the cost of engaging contractors increase. It will endanger the delivery of vital public services and important projects like HS2.'

Internet link: HMRC Off payroll working

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ROAD HAULAGE ASSOCIATION CHALLENGES HMRC

Historically, the Road Haulage Association (RHA) has had an agreement in place with HMRC which set a fixed subsistence allowance that could be paid to long-distance lorry drivers. No receipts or evidence of amounts incurred are required to claim the fixed amount, the employer had to just be satisfied that the driver was away from his normal base and therefore sleeping in his cab. The current rate is £34.90 per night.

HMRC's internal employment income manual was updated on 4 February and now states that two conditions must be met for the subsistence allowance to be claimed. The first is a requirement for documentary evidence, and the second is to adhere to the reasonable reimbursement rules. Documentary evidence is defined as log sheets, expenses claims, receipts for lodging, and parking receipts or records kept by the employer as evidence of nights away from home and the permanent workplace. The RHA says that HMRC has been telling hauliers that they now need to get proof of purchases from their drivers if they are going to pay an overnight subsistence allowance up to the rate agreed with the RHA.

The RHA claims that this advice is incorrect and confusing and says there is no change to the system. Drivers must genuinely be away in their cabs overnight but nothing further is required. Jack Semple, RHA director of policy, said: 'We have confirmation of that from HMRC, but HMRC inspectors have, in some cases, been imposing new demands on hauliers. The overnight subsistence payment is a proper recognition of the realities of the road haulage industry – a sector that is vital to the UK economy - and HMRC should not be seeking to add to the burden of red tape in the way that it functions. More to the point, it has agreed not to do so – but appears to have failed to communicate that internally. I fear many hauliers, from the smallest to the very large, may have been told there are changes when there are none; that a more complicated system is being imposed, when that is not the case'.

If you are unsure what subsistence amounts can be paid to your employees in this or any other sector, then please do get in touch.

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APPLY ONLINE FOR A BESPOKE SCALE RATE FOR EXPENSES

Employers have the option to pay their employees a scale rate expense payment to reimburse them for expenses incurred in the performance of their duties. A scale rate payment is designed to do no more than reimburse the employee's allowable expenditure without the need for the employee to provide a receipt and make a formal

expense claim. Scale rates are generally set at a fairly modest level.

Scale rates can be useful where expenses are widely incurred, for broadly similar amounts, but for which it is difficult to get receipts e.g. subsistence or cleaning of uniforms and protective clothing.

From April 2009, employers have had the option of using the advisory benchmark scale rates for subsistence expenses, which were set by HMRC. Employers need to notify HMRC when they wish to use these rates. Where any scale rate is used, the employer is responsible for operating a suitable checking system to ensure that employees are actually incurring qualifying expenses.

If the employer wants to pay at a different rate, or pay a scale rate for a different type of expense, then they need to apply to HMRC with a proposal of a reasonable amount. It is likely HMRC will then ask them to undertake a sampling exercise over a fixed period of time to prove that the amount requested is not excessive.

HMRC has recently launched an online form that can be completed to apply for a bespoke scale rate which may simplify the application process. The form can be found here: http://tinyurl.com/j8twp3y

If you have any queries regarding expense claims or scale rate payments then please contact us.

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NATIONAL MINIMUM WAGE RISES

The National Minimum Wage (NMW) rates will increase from 1 October 2016 as follows:

	Current rate	Rate from 1 October 2016
21-24 year olds	£6.70	£6.95
18-20 year olds	£5.30	£5.55
16-17 year olds	£3.87	£4.00
Apprentice rate*	£3.30	£3.40

From 1 April 2016 following the introduction of the National Living Wage all workers aged 25 and over are legally entitled to at least £7.20 per hour. Employers should ensure that all affected employees benefit from this new rate from 1 April 2016.

*This apprentice rate is for apprentices aged 16 to 18 and those aged 19 or over who are in their first year. All other apprentices are entitled to the National Minimum Wage for their age.

Internet links: Parliament **I** Living Wage

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FARMERS TO BENEFIT FROM NEW EXTENDED AVERAGING RULES

From 6 April 2016 farmers are able to average their profits for income tax purposes for a period of up to five years, rather than the normal two year period. It is expected that this could benefit over 29,000 farmers, saving an average of £950 a year.

Averaging profits over a number of tax years helps farmers to better manage fluctuating profits which might arise as a result of weather, disease, risk and the impact of global volatility, something which seems to happen more and more frequently.

Farmers can still average over a two year period if they wish but will now have the option to average over a five year period instead. Claims will be subject to certain volatility conditions and will be made retrospectively, as under the previous rules.

The new five year rule will not apply to individuals whose profits are derived from creative works, however they will still be able to claim to average their profits under the existing two year period rules.

It will be necessary to consider the position on a case by case basis to ascertain whether it is more beneficial to average over a two year or five year period, or not at all. If you would like to discuss this further then please get in touch.

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SHARP CUTS EXPECTED FOR TAX CREDIT CLAIMANTS

If HMRC is recovering a tax credit overpayment for an earlier year by reducing your current tax credit payments, you may see a sharp fall in your payments received if your household income is more than £20,000.

From 6 April 2016, the maximum rate at which payments are reduced in order to repay debt increased from 25% to 50%. This means you will pay back the overpayment at a much faster rate and so there could be a significant impact on your tax credit payments.

This change could impact particularly on those families with high childcare costs and those who receive extra payments due to disability as their awards will generally be higher in the first place. The Low Income Tax Reform Group (LITRG) has asked HMRC to devise some form of protection for those families to avoid causing hardship.

If you need help understanding you tax credit claim then please get in touch.

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