Call: **01323 644579**
Email: info@caladine.co.uk

Caladine
Chartered Certified Accountants

Tax E-News

Welcome to our monthly newswire. In this issue we cover a number of recent tax changes and things to be aware of in the future. As usual contact us if you wish to discuss any matters further.

April 2021

NEW PERSONAL SERVICE COMPANY RULES START IN APRIL

The "off-payroll" working rules that apply to certain workers supplying their services to clients via their own personal service companies start from 6 April 2021.

Under this new regime end user businesses will be required to determine whether that individual would have been treated as an employee or not if directly engaged. This will be a significant additional administrative burden on the large and medium-sized businesses to whom the new rules apply. This is a complex area based on different decisions by the courts and HMRC suggest that end user organisations use the CEST (Check Employment Status for Tax) online tool on their website to help with the determination. The end user business is then required to issue the worker with a Status Determination Statement setting out the reasoning for their decision, a copy of which is also given to any agency supplying the worker if relevant.

The determination notifies the agency that PAYE and NIC should be deducted from payments to the worker's personal service company. That information should be passed down the labour supply chain if other entities are involved, and the ultimate fee payer is liable for making the tax and NIC deductions. If HMRC are unable to collect the tax from the fee payer, the liability will pass up the labour supply chain thus encouraging the end user organisation to carry out due diligence to limit their exposure.

Please contact us if you need assistance in complying with the new rules.

NO CHANGE FOR "SMALL" EMPLOYERS

"Small" businesses will be outside of the new obligations and services supplied to such organisations will continue to be dealt with under the current IR35 rules with the worker and his or her personal service company effectively self-assessing whether the rules apply to that particular engagement.

The definition of "small" is based on the existing Companies Act 2006 definition. That is where the business satisfies 2 or more of the following features:

- Annual turnover of £10.2million or less
- Balance Sheet total of £5.1 million or less
- 50 employees or less

UBER DRIVERS ARE WORKERS NOT SELF EMPLOYED

The Supreme Court has ruled that drivers for the ride hailing App Uber are workers not self-employed individuals and hence are entitled to holiday pay, pension rights and the right to be paid the national minimum wage. This case will have implications for other workers in the "gig" economy and may also have a bearing on the tax status of such workers. HMRC will certainly be taking an interest in the Supreme Court ruling. Note that tax law doesn't necessarily follow employment law, but the boundaries are becoming increasingly blurred making it difficult to determine an individual's employment status with absolute certainty.

The court determined that the drivers were in a position of subordination to Uber. The only way the worker could increase their earnings would be to work longer hours as Uber set the fare charged to the customer. This indicates that the driver is under the control of Uber, a key factor in determining employment status. However, it could be argued that there is limited Mutuality of Obligation as the drivers are able to refuse certain rides, although that may result in sanctions by Uber.

MORE DETAILS ON THE NEW SUPER-DEDUCTION FOR EQUIPMENT

In the Budget on 3rd March the Chancellor announced a new 130% tax relief for expenditure on new plant and machinery incurred between 1 April 2021 and 31 March 2023. It turns out that this new tax relief is only available to limited companies and the latest Finance Bill reveals a nasty sting in the tail when the equipment is sold, as the clawback on disposal is potentially at the same 130% rate. So, if a new item of plant cost £100,000 the company would be able to deduct £130,000 in arriving at taxable profits thus saving £24,700 in corporation tax at 19%. However, if the plant was sold for £80,000 on 1 April 2023 130% of the proceeds would be clawed back and £104,000 added to taxable profit which could result in up to £26,000 corporation tax payable at the new 25% rate. The claw-back rate reduces on a time basis from 1 April 2023 onwards so it would be advisable to retain the asset long term.

The 130% rate does not apply to equipment such as air conditioning and central heating that normally qualify for a 6% writing down allowance. Such "integral features" qualify for a special 50% first year allowance for the same two-year period.

Please contact us to discuss the tax implications of major capital expenditure decisions.

NEW ENHANCED LOSS RELIEF RULES MAY RESULT IN EXTRA TAX REFUNDS

In the March Budget it was announced that the normal one year carry back for trading losses would be extended to three years. This means that many businesses that have made losses during the COVID-19 pandemic may be able to obtain a repayment of tax paid in that three-year period. This enhanced carry back applies to unincorporated businesses as well as limited companies and the details are set out in the latest Finance Bill.

For corporation tax purposes the loss-making accounting period must end between 1 April 2020 and 31 March 2022 to qualify for the three year carry back. For unincorporated businesses, the trading loss must be incurred in 2020/21 or 2021/22.

For example, if Albion Ltd incurred trading losses of £200,000 in year ended 31 December 2020 having made profits of £50,000 in year ended 31 December 2019 it would normally only be possible to relieve £50,000 of the losses.

The new temporary carry back rules would permit losses to be set against trading profits made in the years ended 31 December 2018 and then 31 December 2017 as well. If profits in those years were £150,000 or more then the company would be entitled to a £38,000 corporation tax refund (19% of £200,000).

CONSULTATIONS ISSUED ON "TAX DAY" BY TREASURY

The Treasury normally issue a bundle of tax consultation documents on Budget Day. This year however they chose to delay the publication until 3 weeks after the Budget. We were expecting the consultation documents to include major changes to CGT and IHT, but it would appear that these have yet again been delayed. The Treasury have accepted a number of recommendations by the Office of Tax Simplification (OTS) on simplifying IHT reporting. From 1 January 2022 over 90 per cent of non-taxpaying estates each year will no longer have to complete IHT forms for deaths when probate is required. The government will also consider introducing a new digital system for IHT and probate reporting.

Another consultation is seeking views on modernising the tax administration system including changes to the payment dates for those outside PAYE. It would appear that HMRC are reconsidering a possible Pay as You Go system for the self-employed that was originally consulted on in 2016.

REVIEW OF BUSINESS RATES

Among the documents published was an interim report on the government's Fundamental Review of Business Rates, which sets out a summary of responses to last year's call for evidence. The final report will be published in the Autumn. The government will also legislate to tighten tax rules for second homeowners meaning they can only register for business rates (and business rates relief) if their properties are genuine holiday lets. This will close a loophole that allowed some second homeowners to avoid paying council tax on that property, and some were even claiming coronavirus support grants for their "business".

DIARY OF MAIN TAX EVENTS

APRIL/MAY 2021

Date	What's Due
1/04	Corporation tax payment for year to 30/6/20 (unless quarterly instalments apply)
6/04	2020/21 tax year ended on 5th. 2021/22 tax year begins. New "off-payroll" working rules start.
19/04	PAYE & NIC deductions, and CIS return and tax, for month to 5/04/21 (due 22/04 if you pay electronically)
1/05	Corporation tax payment for year to 31/7/20 (unless quarterly instalments apply)
19/05	PAYE & NIC deductions, and CIS return and tax, for month to 5/05/21 (due 22/05 if you pay electronically)

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May 2021

DETAILS OF LATEST CJRS "FURLOUGH" GRANTS

The fourth version of the CJRS "furlough" grant scheme starts on 1 May 2021 and will run until 30 September with employees affected continuing to be supported such that they are entitled to be paid at least 80% of their "usual pay" subject to a limit of £2,500 a month for hours not worked. The government, via HMRC, will continue to provide support up to this 80% figure for the months of May and June. The government support then reduces to 70% for July and the 60% for August and September with the employer being required to make up the difference. The employer is also required to pay national insurance contributions and pension contributions on the full amount paid to the employee.

Eligibility from 1 May 2021

In order to be included in a CJRS "furlough" grant claim for periods after 1 May 2021 an employee must have been on the payroll and subject to an RTI (real time information) submission between 20 March 2020 and 2 March 2021.

The claim calculation continues to be complex with care required to compute the employee's "usual pay" and "usual hours" particularly where the hours and pay varies. Furloughed hours for the grant claim continues to be the difference between the employee's usual hours and hours worked in the claim period.

"Usual pay"

In order to qualify for the first and second CJRS "furlough" support grants an employee needed to be included in an RTI submission for 2019/20 by 19 March to be included. If that employee continues to be employed their "usual pay" for the next version of CJRS continues to be that same amount, even where they have had a pay rise.

Those who failed the original eligibility test but were on the payroll and subject to an RTI submission before 30 October 2020 were eligible for the third version of furlough that started on 1 November 2020. If that employee continues for to be employed their "usual pay" for the next version of CJRS continues to be that same amount, again even where they have had a pay rise.

For employees on fixed pay who were first reported through RTI between 31 October 2020 and 2 March 2021 the "usual pay" is based on the last pay period ending on or before 2 March 2021. For those on variable pay calculate 80% of the average wages payable between 6 April 2020 (or, if later, the date the employment started) and the date before they were first furloughed on or after 1 May 2021

The grant calculations don't get any simpler! If we can be of assistance in helping you with your claims please get in touch.

Note that HMRC may impose penalties on employers that have overclaimed, even for careless errors.

DETAILS OF FOURTH SELF-EMPLOYED INCOME SUPPORT GRANT

Like the CJRS scheme for employers the Self-Employed Income Support Scheme (SEISS) has been extended to September 2021and details of claims for the fourth grant have now been released. This fourth grant covers February, March and April 2021. There will then be a fifth grant covering May to September 2021.

The latest grant allows the self-employed to claim 80% of their average profits for the period up to 2019/20, and is again limited to £2,500 a month.

Like CJRS there are lots of conditions that need to be satisfied such as being self-employed in 2019/20 and continuing to trade in 2020/21 or would be doing so if it the business had not been impacted by coronavirus.

In order to be able to make a successful claim the self-employed profits in 2019/20 must not exceed £50,000 and must be more than 50% of the individual's total income. If that test is not met, then the same £50,000 and 50% tests are applied to average profits and total income over the four years (or shorter period) to 5 April 2020. This means that those who commenced trading in 2019/20 will now potentially be eligible for SEISS grants, having not previously qualified for the first three grants.

Although we cannot make the claim on your behalf we can help you determine whether you are eligible and assist you with your claim if required.

Conditions for the fifth grant will be linked to a reduction in business turnover.

Self-employed individuals whose turnover has fallen by 30% or more will continue to receive the full grant worth 80% of three months' average trading profits, capped at £7,500. People whose turnover has fallen by less than 30% will receive a 30% grant, capped at £2,850. We are still awaiting further details of the fifth grant calculation.

MAKING TAX DIGITAL EXTENDED TO MORE BUSINESSES

Currently only VAT registered businesses making taxable supplies in excess of the £85,000 VAT registration threshold are mandated to comply with Making Tax Digital (MTD) rules. Those rules require the business to keep digital business records and send VAT returns using MTD-compatible software.

MTD for VAT is now being rolled out to all VAT registered businesses from April 2022 which may cause some traders who are VAT registered but below the threshold to consider deregistering to avoid having to comply with MTD for VAT. If you decide to do so you will need to complete Form VAT7 and account for output VAT on the market value of stock and assets still owned at the date of deregistration. This is where input VAT has been reclaimed on those assets.

There is however a £1,000 de-minimis which means that output VAT does not need to be accounted for where the combined market value of the assets is less than £6,000.

Unfortunately, deregistering for VAT will not necessarily sidestep MTD as the requirement to keep business records digitally will be introduced for income tax from April 2023. From then MTD for income tax will apply to businesses with gross income in excess of £10,000 a year which will include property landlords as well as traders and professionals.

ASSOCIATED COMPANIES COUNT FOR NEW CORPORATION TAX RATES

A 25% rate of corporation tax will apply to all of a company's profits if they exceed £250,000 from 1 April 2023. The 19% rate will continue to apply where profits are below £50,000. The marginal rate that applies between those limits will be 26.5%.

Those upper and lower limits are divided by the number of "associated companies" in the accounting period. This is not merely companies in the same 51% group but also includes companies under common control, for example where the same individual controls two standalone companies.

So, if Fred controls Bloggs Trading Ltd and also Bloggs Lettings Ltd the limits become £125,000 and £25,000. If Bloggs Trading Ltd has profits of £200,000 in year ended 31 March 2024 then the 25% rate will apply to all of that company's profits.

In a group situation you may wish to consider restructuring the businesses by the transfer of trades to a single operating company, leaving the other companies dormant as those companies would not normally be counted as associates.

NO EMPLOYERS NICS FOR A YEAR IF YOU HIRE EX-MILITARY STAFF

The Government have announced a one-year exemption from paying employers national insurance contributions (NICs) where military veterans are recruited by civilian employers.

Employers can claim relief if they employ a veteran during the qualifying period. The qualifying period starts on the first day of the veteran's first civilian job since leaving the regular armed forces and ends 12 months later. For 2021/22 employers will be required to pay the NICs and then claim back the amounts paid at the end of the tax year. From 6 April 2022 a new zero NIC rate will apply.

DIARY OF MAIN TAX EVENTS
MAY/JUNE 2021

Date	What's Due
01/05	Corporation tax payment for year to 31/07/20 (unless quarterly instalments apply)
19/05	PAYE & NIC deductions, and CIS return and tax, for month to 5/05/21 (due 22/05 if you pay electronically)
01/06	Corporation tax payment for year to 31/08/20 (unless quarterly instalments apply)
19/06	PAYE & NIC deductions, and CIS return and tax, for month to 5/06/21 (due 22/06 if you pay electronically)