@News
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Chartered Accountants & Registered Auditors
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TAX

A chance to simplify inheritance tax?

Inheritance tax (IHT) has remained largely unchanged for the past decade, apart from the introduction of the residence nil rate band in 2017. However, proposals from both sides of the political spectrum mean any current estate planning may soon require revision.

The latest report on simplifying IHT, produced by the Office of Tax Simplification (OTS), concentrates on three key areas.

Lifetime gifts The report recommends that the seven-year survival period is reduced to five years, but with taper relief abolished. However, such a change would create a five-year cliff edge for IHT chargeability.

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The OTS also suggests that the various lifetime exemptions should be replaced with a personal gifts allowance. This might also be used to replace the exemption for normal expenditure out of income.

Businesses The threshold for trading activity for business property relief should be aligned with that for capital gains tax (CGT) reliefs. So the present test of 'wholly or mainly' (generally meaning above 50% of trading activity) would be replaced with an 80% test.

Interaction with CGT Currently, there is a CGT tax-free uplift on death, with a person inheriting assets at their market value at the date of death. The OTS recommends that the uplift be removed where an asset also qualifies for an IHT exemption, and the recipient of the asset should inherit at the historical base cost of the person who has died.

Given the current political turmoil, there could soon be a change of government and the Labour party has its own IHT plans. So you may wish to take some simple planning measures. If you are in a position to make large tax-free gifts out of income, do so now in case the exemption is curtailed. Look at restructuring a business that falls between the 50% and 80% trading activity tests. And if there is no CGT advantage to retaining assets until death, consider making lifetime gifts instead.

EMPLOYMENT

Unpaid work trials and the minimum wage

Do you ask job applicants to carry out a period of unpaid work to decide whether they have the skills and qualities required for the job? If so, they may be entitled to the minimum wage.

Most workers in the UK must be paid the National Minimum Wage or National Living Wage There are no clear rules, however, for work trials. In practice, payment of the minimum wage depends on the answers to several questions:

- Is the work trial genuinely for recruitment purposes? If not, it is a work contract and the minimum wage is payable.
- How long is the trial? HMRC considers that no more than a day is usually needed to test a candidate's qualities.
- To what extent is the individual observed in carrying out tasks during the trial?
- What is the nature of the tasks in the trial and how do they relate to the job being offered?
- Do the tasks the person carries out provide any value to the employer beyond just testing the applicant? If so, the applicant is likely to be treated as a worker.
- Is the employer actually using trial periods to reduce labour costs?

Employers should also take care about internships, work experience and volunteers, where similar considerations apply.

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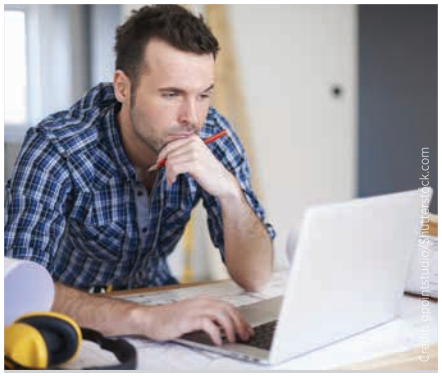
EMPLOYMENT

Determining off-payroll employment status

The off-payroll working rules for private businesses are set to change from April 2020, but some recent tribunal decisions have led to uncertainty over determining employment status.

The rules, commonly known as IR35, apply where a worker provides services to a client or end-user through an intermediary – typically a personal service company (PSC) owned by the worker. At present, if the end-user is in the public sector, they must determine the worker's employment status. If the end-user is in the private sector, it is the responsibility of the PSC.

From April 2020 private sector medium and large businesses that engage workers via intermediaries will have to determine their employment status. There will be no change for small businesses.



Status determination

Medium and large end-users will have to issue an employment status determination statement (SDS) and explain the reasons for it. If there is an employment agency or other intermediaries in the supply chain, the end-user should pass the SDS down the line until it reaches the business that will pay the PSC. If that business decides the worker is an employee, then it is treated as the employer and must deduct income tax and employee's NICs from the payment. It is also responsible for paying the employer's NICs.

A problem for PSCs and their clients is that determining employment status requires applying complex rules that even HMRC can find difficult to interpret. In a number of cases, the tax tribunal has issued conflicting decisions, depending on the precise facts, with HMRC winning some very recent ones. If you may be affected, we can advise.

PENSIONS

Remember pension re-enrolment

Every three years employers must re-enrol any staff who have left their pension scheme. Small and micro employers now have to comply with these requirements for the first time.

This October marks the seventh anniversary of the start of workplace pension auto-enrolment, with 85% of eligible private sector employees now enrolled according to recently published figures. The Pensions Regulator is concerned that some employers are failing to complete re-enrolment correctly, with the risk of incurring a fine, and has now launched a new online re-enrolment tool to make the process clearer.

The re-enrolment date is the three-year anniversary from your business's original staging date, but there is a three-month leeway either side of this date. You can check using the re-enrolment date tool.

Re-enrolling employees

Employers must check whether they have any staff to re-enrol and ensure those who are eligible are added back into a pension scheme.

- This means assessing those staff who have left your pension scheme, or who have reduced their contributions into it (they are not considered as being members of a qualifying scheme).
- If you have any staff to re-enrol, they must be automatically enrolled into your pension scheme within six weeks of the re-enrolment date. Any re-enrolled staff should be sent an explanatory letter.
- Re-enrolled staff have one-month in which they can opt out of your pension scheme.

Re-declaration

Employers must then complete and submit a re-declaration of compliance. This is required even if, as will often be the case, there is no need to re-enrol any staff. The re-declaration of compliance confirms that an employer has checked whether they need to re-enrol any of their staff, even if none were re-enrolled. The deadline is five months from the third anniversary of the staging date.

You also still have ongoing duties to monitor your staff's ages and salary to see if they need to be enrolled into your pension scheme.

TAX

MTD – reprieve for late filers

One in ten businesses failed to submit their VAT return using the Making Tax Digital (MTD) service by their 7 August 2019 deadline. However, HMRC has waived penalties in a concession announced in advance because of the slow sign-up to MTD.

Most VAT-registered businesses with taxable turnover above £85,000 are required to keep digital business records and send VAT returns using MTD-compatible software for accounting periods that started on or after 1 April 2019. For businesses with a VAT period starting on 1 April 2019, the first returns under MTD were due on 7 August 2019.

Businesses that missed the deadline for signing up for MTD were told that penalties would not be charged – provided they submitted their returns by 7 August using the old HMRC VAT return portal. To comply with the MTD rules in future, they must obtain the necessary software and sign up to MTD before their next return is due.