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CHARTERED ACCOUNTANTS

NEWS UPDATE - 13 OCTOBER 2022

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Making Tax Digital: avoiding VAT penalties

From 1 November 2022, VAT-registered businesses that do not yet comply with the Making Tax Digital (MTD) requirements will face penalties. Businesses should also be aware of the new VAT penalty regime being introduced from 1 January 2023.

Although VAT-registered business should already be submitting their VAT returns using MTD compatible software, they have until now been able to continue using their VAT online account without incurring a penalty. However, for those businesses filing their VAT returns monthly or quarterly, this option will no longer be available, making it impossible to file other than by using MTD software.

HMRC has said that a business filing annual VAT returns can continue to use their VAT online account until 15 May 2023. Around 10% of businesses filing returns using the correct MTD software have not yet signed up for MTD with HMRC but will need to do so to avoid a penalty.

Penalties

The maximum penalty for filing a VAT return using the incorrect method is £400, but only £100 if a business's turnover is below £100,000.

Any business that is not signed up for MTD will also be at risk of incurring penalties under the new regime applicable for VAT return periods beginning on or after 1 January 2023:

- Interest, currently set at 4.75%, will be charged from the due date.
- Late payment penalties will kick in, initially at 2% of the outstanding VAT, once payment is more than 15 days late.
- Late submission penalties will be charged under a points-based system, with an initial £200 penalty charged if four quarterly returns are late.

Having a reasonable excuse might provide a potential escape route, but failure to use MTD software is hardly likely to count. HMRC's guidance on how to avoid penalties for MTD for VAT can be found from the link below:

https://www.gov.uk/government/publications/compliance-checks-how-to-avoid-penalties-for-making-tax-digital-for-vat-ccfs69/compliance-checks-how-to-avoid-penalties-for-making-tax-digital-for-vat-ccfs69

IR35 rollback surprise

One of the least expected announcements in the Chancellor's recent Growth Plan was the rollback of the IR35 off-payroll working rules to the position prior to the 2017 and 2021 reforms, which is set to take effect from 6 April 2023.

The 2017 and 2021 reforms moved responsibility for status determination from the contractor to the client, be it in the private (2021 reform) or public (2017 reform) sector. The one exception was when working for a small private sector client where responsibility has remained with the contractor.

If caught under the off-payroll working rules, the contractor has been taxed as an employee with income tax and national insurance contributions (NICs) deducted.

The repeal of the 2017 and 2021 reforms is currently just the government's intent and is not guaranteed until the next Finance Bill reaches Royal Assent – something far from assured given the political climate.

Rollback rules from 6 April 2023

Contractors providing their services via an intermediary company (or partnership) will once again be responsible for determining their own employment status.

- If a contract is deemed to be outside the off-payroll working rules, the contractor can simply withdraw the income on the most favourable tax basis, or it can be left undrawn in the company.
- If within the rules, the contractor will be responsible for calculating income tax and NICs, and then paying these over to HMRC.

Although there is a very strict deadline for complying with the tax obligations if caught under the rules, one advantage is that a 5% flat rate expense deduction is given when calculating the income to be taxed.

Clients who have implemented a blanket ban on using company contractors are likely to reverse their position, with the contracting market revitalised. However, this will probably not happen immediately, with both contractors and clients needing time to adjust to the new status quo.

HMRC's guidance on the current off-payroll working rules, which continue to apply until 5 April 2023, can be found from the link below:

https://www.gov.uk/guidance/understanding-off-payroll-working-ir35

Tax relief for owner-managers

There is no certainty of all the measures surviving, but September's Growth Plan was good news as far as tax is concerned for owner-managers, with the rates of corporation tax, national insurance contributions (NICs) and dividend tax all cut.

The cuts

- Corporation tax: The intended increase in the main rate of corporation tax to 25% for profits in excess of £250,000 from 1 April 2023 has been cancelled. A marginal rate of 26.5% would have applied to profits between £50,000 and £250,000. Corporation tax will now remain at the current single rate of 19%.

- NICs: The 1.25% health and social care levy has been cancelled, so the rates of NICs for 2023/24 will return to what they were for 2021/22. For directors, the rate will be 12% on remuneration between £12,570 and £50,270, with a 2% rate thereafter. For the company, a flat rate of 13.8%. Compared to 2021/22, however, the increased primary threshold has been retained – a double benefit.

- Dividend tax: Tax rates for 2023/24 will similarly be cut by 1.25%, meaning a basic rate of 7.5%, a higher rate of 32.5% and an additional rate of 38.1%.

Directors will also benefit from the proposed 1% cut to the basic rate of income tax from 6 April 2023.

Impact

The changes previously set to come in from April 2023 would have made incorporation much less attractive compared to running an unincorporated business. The Growth Plan tax cuts effectively return the tax position to what it was for 2021/22. For a business with profits of £100,000 (taking director's remuneration of £12,570 and maximum dividends if run as a limited company), the tax cost comparison – before and after the tax cuts for 2023/24 – is:

	UNINCORPORATED	INCORPORATED	ADVANTAGE
Before tax cuts	£33,100	£33,000	£100
After tax cuts	£31,600	£30,300	£1,300

The government's step by step guide on setting up a limited company can be found from the link below:

https://www.gov.uk/set-up-limited-company

Seed enterprise investment uplift

The government's September Growth Plan contained some significant upgrades to the seed enterprise investment scheme (SEIS), with proposals set to come in from 6 April 2023. The changes aim to help companies raise money and attract talent.

The combined SEIS income tax and capital gains tax (CGT) reliefs can save an investor up to 64% on their tax, with a shareholding subsequently sold at a profit free of CGT. And should a SEIS investment fail, the loss can qualify for further tax relief.

Proposed changes

The government proposals are:

- The annual investment limit for investors is to be doubled from £100,000 to £200,000, with income tax relief of 50% given on this amount. This is subject to having sufficient income tax liability to absorb the relief, although relief can always be carried back one year.
- The current maximum that a company can receive through SEIS investments is £150,000. This limit is to be raised to £250,000.
- To raise funds under the SEIS, a company must meet various conditions. These include trading for less than two years, with gross assets not exceeding £200,000. The two-year limit will be raised to three years (it doesn't matter when the company was actually incorporated), with the gross asset limit rising to £350,000.

A company must also have less than 25 full-time equivalent employees at the time SEIS shares are issued, but this limit is not changing.

Employees and directors

Employees cannot invest in their employer company, but directors may be able to do so.

For directors to qualify, they cannot have a substantial interest in their employer company. Explained basically, a substantial interest is defined as a shareholding of more than 30%, and – since shareholdings of close relatives are included – it's unlikely that a family-owned company will qualify.

Although the changes are not coming in until April 2023, companies can start to line up investors and obtain HMRC clearance. It is even possible to take money from investors now under an advance subscription agreement.

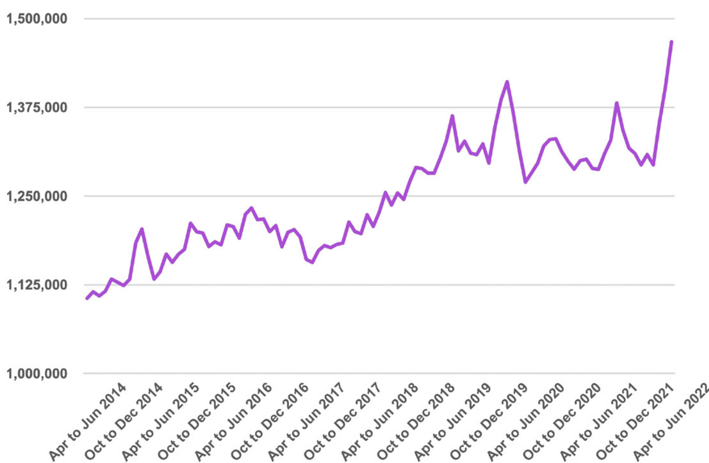
HMRC's guidance on using the SEIS to raise money for your company can be found from the link below:

https://www.gov.uk/guidance/venture-capital-schemes-apply-to-use-the-seed-enterprise-investment-scheme

Over-65s set new employment record

The latest data from the Office for National Statistics (ONS) reveals that more people than ever are working beyond age 65.

Working population 65 and over



Source: ONS 9/2022.

One of the stranger economic statistics of recent times has been the strength of employment markets on both sides of the Atlantic. For all the talk of an impending recession and the upward march of interest rates, employment has remained buoyant in both the UK and the US. The unemployment rate in both countries is under 4.0%, which is about as close to full employment as can be reached. The latest estimate for the UK is that unemployment numbers are 42,000 less than job vacancies, whereas in the US, job openings are double the unemployed numbers.

A notable feature of the UK employment market has been the increase in the population aged 65 and over who are in work. The latest data from the ONS – covering the period April to June 2022 – showed both a record quarterly increase and a record total of close to 1.5 million, of whom nearly three quarters were employed. Viewed another way, 15.5% of men and 9.2% of women aged 65 and over were in work during this period.

The longer-term ONS figures show that over the last ten years, while overall employment has risen by about a tenth, employment among those aged 65 and over is up by a little over a half. These senior workers are not labouring all week, but they are, on average, putting in nearly 22 hours. The recent joiners of the 65-and-over workforce are predominantly part-timers, both employed and self-employed, according to the ONS.

What the ONS statistics do not reveal is why employment is growing so rapidly in this sector of the population. There is a clue in the fact that, to quote the ONS, "The industries where informal employment is more common, such as hospitality and arts, entertainment and recreation, saw some of the largest increases."

The combination of sharply rising inflation and the increase in state pension age to 66 is likely to be forcing some former retirees back into work to make ends meet. It does not help that the April 2022 increase in the state pension was 3.1%, less than a third the current (August) rate of CPI inflation.

If the idea of joining that growing band of those still working at 65 and over does not appeal, then make sure your retirement planning provides you with enough income when you need it.

Should you wish to discuss this News Update in further detail please contact BGM at: communications@bgm.co.uk

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