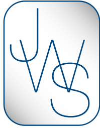

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JWS NEWS

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Changes to termination payments

Several changes to the tax treatment of termination payments are set to take effect in the coming years. However, the timescale for introducing some of the reforms has been complicated by the government's recent decision to delay the National Insurance Contributions Bill. Here we provide an update on the latest situation.

Payments in lieu of notice (PILONs)

Under the current system, PILONs which are provided for in a contract of employment are subject to income tax and national insurance contributions (NICs). Conversely, 'non-contractual' PILONs may be treated as part of a termination payment and are therefore exempt from income tax up to the £30,000 threshold, and are not subject to NICs. These are effectively ex gratia payments in settlement of a breach to the employee's employment contract.

However, the distinction between contractual and non-contractual PILONs is set to be removed from April 2018, meaning that PILONs will be treated as earnings rather than as termination payments and will therefore be subject to income tax and Class 1 NICs. This will be achieved by requiring the employer to identify the amount of basic pay (excluding expected bonuses), known as Post-Employment Notice Pay, that the employee would have received if they had worked their full notice period. This amount will be treated as earnings and will not be subject to the £30,000 exemption.

The existing £30,000 income tax exemption will be retained and employees will continue to benefit from an unlimited employee NICs exemption for payments associated with the termination of employment, such as redundancy pay. However, PILONs and payments exceeding the £30,000 threshold will be subject to employer NICs. It is anticipated that this will be collected in 'real-time', as part of the employer's standard weekly or monthly payroll returns and remittances to HMRC.

According to the government, the change is intended to 'bring fairness and clarity to the taxation of termination payments', and to prevent manipulation of the rules.

All employers providing termination packages will need to consider the implications of these new rules. There is likely to be a notable impact on the cost of such packages for the employer, while individuals could also see the take-home pay from their termination package reduced significantly.

Note that the changes to the treatment of PILONs for income tax and Class 1 NICs are not affected by the delay to the NICs Bill and the measure will still apply from April 2018.

Foreign service relief

In addition, the government has confirmed that employees who are UK resident in the tax year in which their employment is terminated will not be eligible for foreign service relief on their termination payments. The changes will apply from 6 April 2018.

Termination payments over £30,000

The government previously announced changes to align the rules for tax and employer NICs by making an employer liable to pay Class 1A NICs on any part of a termination payment that exceeds the £30,000 threshold that currently applies for income tax.

This was due to take effect from April 2018 but in November 2017 the government decided to implement a one-year delay, so the changes will now take effect from April 2019. The delay has been welcomed by multiple payroll providers and employers, many of whom had expressed concerns over the added complications and perceived lack of communication on the subject.

To discuss how the changes to employment tax may affect you or your business, please contact us.

A new era for stamp duties

The stamp duty regime has seen some significant changes in recent times, and there are further measures in the pipeline.

New exemption for first-time buyers

In the 2017 Autumn Budget, Chancellor Philip Hammond announced a new exemption from stamp duty land tax (SDLT) for most first-time buyers. A first-time buyer is an individual or individuals who have never owned an interest in a residential property in the UK or elsewhere, and who will occupy the property as their main residence.

From 22 November 2017, first-time buyers in England, Wales (until April 2018) and Northern Ireland paying £300,000 or less for a residential property no longer pay SDLT. Those paying between £300,000 and £500,000 pay SDLT at 5% on the amount of the purchase price in excess of £300,000. Those purchasing property for more than £500,000 will not be entitled to any relief and will pay SDLT at the normal rates. The rates applying in England, Wales and Northern Ireland are:

Residential £	Rate %	Non-residential £	Rate %
Up to 125,000	0	Up to 150,000	0
125,000 - 250,000	2	150,000 - 250,000	2
250,000 - 925,000	5	Over 250,000	5
925,000 - 1,500,000	10		
Over 1,500,000	12		

The rates apply to the portion of the total value which falls within each band. Additional duty of 3% may apply to the purchase of additional residential properties.

The new Land Transaction Tax

From 1 April 2018, Wales will roll out its own stamp duty equivalent, the Land Transaction Tax (LTT), which preserves the essential structure of SDLT but with some key differences, including a higher starting threshold, together with higher rates of duty for some residential properties with a greater value. The existing first-time buyer exemption will also be removed. The proposed new LTT rates are:

Residential £	Rate %	Non-residential £	Rate %
Up to 180,000	0	Up to 150,000	0
180,000 - 250,000	3.5	150,000 - 250,000	1
250,000 - 400,000	5	250,000 - 1,000,000	5
400,000 - 750,000	7.5	Over 1,000,000	6
750,000 - 1,500,000	10		
Over 1,500,000	12		

The Land and Buildings Transaction Tax

Scotland has its own equivalent of SDLT, the Land and Buildings Transaction Tax (LBTT). The current rates of LBTT are as follows:

Residential £	Rate %	Non-residential £	Rate %
Up to 145,000	0	Up to 150,000	0
145,000 - 250,000	2	150,000 - 350,000	3
250,000 - 325,000	5	Over 350,000	4.5
325,000 - 750,000	10		
Over 750,000	12		

In the Scottish Budget in December, Finance Secretary Derek Mackay confirmed that the LBTT rates will remain the same for 2018/19. However, a new relief for first-time homebuyers is planned for purchases up to £175,000. Where a property costs more than this amount, first-time buyers will benefit from relief on the portion of the price below the threshold.

We can help with all aspects of property taxation. Please contact us for further advice.

On the up: VCTs still proving popular

Since their launch more than 20 years ago, Venture Capital Trusts (VCTs) have proved to be a popular investment option for many individuals, with the latest figures revealing that more than £7 billion of funds have now been raised through the scheme.

VCTs are designed to encourage private individuals to invest in smaller high-risk unquoted trading companies, and although they carry a greater degree of risk, the associated tax breaks are often an attractive incentive for many individuals.

Income tax relief of 30% is currently available on subscriptions for VCT shares, on up to £200,000 per tax year, providing the shares are held for at least five years. In addition, an investor in the shares of a VCT will be exempt from tax on dividends and on any capital gain arising from disposal of the shares in the VCT.

VCTs themselves are required to hold at least 70% of their investments in shares or securities that they have subscribed for in qualifying unquoted companies. VCTs have a certain time period in which to meet the percentage test. Various conditions apply, so please speak to us for further information.

Rising popularity

According to the latest figures from HMRC, VCTs issued shares to the value of £570 million in 2016/17. This is an increase of 28% since 2015/16 and the highest amount raised since 2005/06.

Many experts believe that changes to the tax rules governing pensions have contributed to their increasing popularity. The pensions lifetime allowance, for example, has fallen sharply over recent years, while restrictions have also been introduced for those who have both income over £110,000 and adjusted annual income over £150,000. These reforms have led some individuals to seek alternative investment options such as VCTs, outside of their regular pension provision.

While VCTs may have a place in your investment strategy, they do carry a greater degree of risk and you should always seek expert advice before making any decisions.

Strategies for saving tax ahead of the 5 April year end

As the new tax year approaches, now is the time to make sure that you have made the most of the available allowances and exemptions for 2017/18. Here, we outline some key measures to help boost your business and personal wealth.

Business strategies

Make use of capital allowances

Most businesses can take advantage of a 100% Annual Investment Allowance (AIA), which can be applied to the first £200,000 of plant and machinery expenditure (excluding cars). Plant and machinery includes items such as furniture, certain fixtures, computers, commercial vehicles, machines and similar equipment used in the course of doing business. The AIA applies to businesses of any size and most business structures except partnerships with corporate partners, although provisions are in place to prevent multiple claims.

TIP: A purchase made just before the end of the current accounting year means that the allowances are usually available a year earlier than if the purchase was made just after the year end.

Consider the company car

Many businesses choose to make use of company cars – however, have you considered whether a company car is the most tax-efficient option for your needs?

In 2017/18, car benefit and car fuel benefit is calculated at up to 37% of the list price (car), and by the same percentage on a notional £22,600 (fuel). Every year, the percentages increase, and further changes to the rules are set to come into effect in April 2018, so now may be the ideal time to review your company car policy.

TIP: Paying employees for business mileage in their own vehicles may prove more advantageous, especially if their business mileage is high. You may also wish to consider a company van. We can discuss the options with you.

Extract business profits tax-efficiently

There are a number of ways in which you can extract profits from your business tax-efficiently.

Some business owners may opt to take a dividend rather than a salary or a bonus. While a salary or bonus can carry up to 25.8% in employer and employee national insurance contributions (NICs), dividends are paid free of NICs. Dividends are not, however, tax deductible for the company. This area requires careful consideration, so please speak to us.

TIP: The Dividend Allowance is being cut from £5,000 to £2,000 from 6 April 2018, so it may be beneficial to take dividends before the 2017/18 tax year end. If feasible, funds can then be loaned back to your company paying a commercial rate of interest, thus taking advantage of your savings allowances.

Personal strategies

Make tax-efficient savings

Over the years, Individual Savings Accounts (ISAs) have proved to be a popular way to save. The overall annual ISA subscription limit is currently £20,000.

The new Lifetime ISA, available to adults aged under 40, allows first-time buyers and those saving for retirement to deposit up to £4,000 into an account each year. The government will add a 25% bonus on any savings put into the account before their 50th birthday.

TIP: Make sure you have fully utilised your ISA allowance, ahead of 5 April.

Maximise your retirement income

If you are not currently in an appropriate employer pension scheme, it is important to make your own pension arrangements.

Relief is available on annual contributions limited to the greater of £3,600 (gross) or the amount of UK relevant earnings eligible for tax relief, and subject also to the annual allowance, which is generally £40,000.

TIP: Pension contributions must be paid on or before 5 April 2018 to be applied against 2017/18 income.

Consider the whole family

All individuals – including children – have their own tax-free personal allowance, which is £11,500 in 2017/18, so you may wish to consider spreading your income more evenly across the family. (Some restrictions apply: please contact us for further information.)

TIP: The Marriage Allowance is available to married couples and civil partners where one earns no more than £11,500 and neither pays tax at the higher or additional rate – potentially reducing the tax liability by up to £230 in 2017/18.

These are just some of the measures that you may wish to consider. Please contact us for further advice.

Tax Round-up

Abolition of Class 2 NICs is delayed

The government has delayed the abolition of Class 2 national insurance contributions (NICs) by a year, to 6 April 2019.

Under the reforms, which had been due to take effect in April 2018, Class 2 NICs will be abolished and Class 4 contributions will be reformed to include a new threshold, the 'Small Profits Limit'.

The government stated that 'the delay will allow time for [it] to engage with interested parties and parliamentarians with concerns relating to the impact of the abolition of Class 2 NICs on self-employed individuals with low profits'.

Access to contributory benefits for the self-employed is currently gained through Class 2 NICs. After the abolition, those with profits between the Small Profits Limit and Lower Profits Limit will not be liable to pay Class 4 contributions, but will be treated as if they have paid Class 4 contributions for the purposes of gaining access to contributory benefits. All those with profits at or above the Class 4 Small Profits Limit will gain access to the new State Pension, contributory Employment and Support Allowance and Bereavement Benefit.

Those with profits above the Lower Profits Limit will continue to pay Class 4 contributions.

HMRC considering plans for new points-based penalty system

HMRC has announced its intention to reform the current penalty system for late or missing tax returns, as part of its review of tax administration and compliance.

Under the proposed new system, taxpayers who miss the self assessment filing deadline could receive driving licence-style points instead of an immediate fine. Taxpayers would only be penalised once their points reach a specified level. Points would also be wiped from an individual's records after a set period of time.

Under the current system, taxpayers who fail to submit their tax return by the 31 January deadline are liable to an instant £100 fine, with further penalties applying for prolonged delays.

The new 'holistic' approach is intended to focus on taxpayers who persistently break the rules, rather than those who make genuine errors of judgement.

Outlining its plans, the Treasury said: 'The government will reform the penalty system for late or missing tax returns, adopting a new points-based approach. It will also consult on whether to simplify and harmonise penalties and interest due on late payments and repayments.

'This will ensure that the system is fair, simple and effective across different taxes. Final decisions on both measures will be taken following this latter consultation.'

Tax Tip

Review your business structure

You may be able to reduce your annual tax bill by reviewing your business's structure, as there are often significant tax savings to be made. During the early years of a business, it may be preferable to operate as a sole trader or in a partnership. However, as your profits increase, you may find it more beneficial to form a limited company.

Incorporating your business also has many non-tax advantages. Incorporated companies enjoy legal continuity, as they are legal entities in their own right. In addition, if a business owner ever wished to transfer ownership, as an incorporated company this can be achieved with greater ease than if trading as a sole trader or in a partnership.

Please get in touch with us for more information.

Reminders for your diary

March 2018

1 New Advisory Fuel Rates (AFR) for company car users apply from today.

3 5% late payment penalty on any 2016/17 outstanding tax which was due on 31 January 2018 and still remains unpaid.

19 PAYE, Student loan and CIS deductions are due for the month to 5 March 2018.

31 End of corporation tax financial year.

End of CT61 quarterly period.

Filing date for Company Tax Return Form CT600 for period ended 31 March 2017.

Last minute planning for tax year 2017/18.

April 2018

5 Last day of 2017/18 tax year.

Deadline for 2017/18 ISA investments and pension contributions.

Last day to make disposals using the 2017/18 CGT exemption.

14 Due date for income tax for the CT61 period to 31 March 2018.

19 Automatic interest is charged where PAYE tax, Student loan deductions, Class 1 NICs or CIS deductions for 2017/18 are not paid by today. Penalties may also apply if any payments have been made late throughout the tax year.

PAYE quarterly payments are due for small employers for the pay periods 6 January 2018 to 5 April 2018.

PAYE, Student loan and CIS deductions are due for the month to 5 April 2018.

Deadline for employers' final PAYE return to be submitted online for 2017/18.

May 2018

3 Deadline for submitting P46(Car) for employees whose car/fuel benefits changed during the quarter to 5 April 2018.

19 PAYE, Student loan and CIS deductions are due for the month to 5 May 2018.

31 Deadline for forms P60 for 2017/18 to be issued to employees.

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