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Winter 2013
financial UPDATE

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Protect your pension before April

You need to act before next April if you want to safeguard your current level of lifetime allowance.

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The lifetime allowance is currently £1.5 million and represents the maximum amount of pension saving you can build up over your lifetime benefiting from tax relief. It applies not just to pension schemes into which you contribute, but also company schemes where only your employer pays. From 6 April 2014 the lifetime allowance will be reduced to £1.25 million, but there is the opportunity to fix at the current £1.5 million limit by applying for FP2014.

Application for FP2014 has been available since 12 August 2013 and can be applied for either electronically or on paper up to 5 April 2014.

It can get confusing as there have been previous opportunities to fix the level of lifetime allowance, and the current protection will not be available if any of these already apply:

- **Primary protection** and **enhanced protection** were available when the lifetime allowance was introduced in April 2006.
- **Fixed protection 2012** was available when the lifetime allowance was reduced from £1.8 million to £1.5 million in April 2012.

Although FP2014 will fix your lifetime allowance at £1.5 million, it means that no further pension savings can be made by you or on your behalf. Moreover, new benefits in any defined benefit scheme will be restricted. So you will have to be careful if you are automatically enrolled into a workplace pension – protection will be lost unless you immediately opt out.

Just to confuse the whole issue further, the Government is also proposing to introduce an alternative to FP2014 in the form of individual protection 2014. This cannot be applied for until 6 April 2014, although a three-year application window is proposed. Individual protection will only be available if you have already built up pension savings greater than £1.25 million, whereas FP2014 fixed protection can be used if pension savings are below this limit. The other major difference is that it will be possible to continue pension saving after 5 April 2014 with individual protection.

FP2014 is the only option if your pension savings are below £1.25 million. Otherwise, it may well make sense to hedge your bets by applying for both types of protection. FP2014 will take precedence, but individual protection will come into play should fixed protection be lost. This is a complex decision, so take professional advice if you think you are affected.

Managing the child benefit tax charge

We are now in the first full tax year of the child benefit tax charge which means that you may find yourself in the scope of self-assessment – even if you have never had to file a tax return before.

The high income child benefit charge was introduced on 7 January 2013, and has meant that even if self-assessment is not new to you, you may still have to provide us with more information than previously for your 2012/13 tax return. This is because your partner's financial position can now be relevant when it comes to completing your own tax return.

How does it work?

The child benefit tax charge applies where either you or your partner has income of more than £50,000 and either of you receives child benefit. If both of you have income above £50,000, then whoever has the higher income will suffer the charge. Of course you might be one of almost 400,000 people who opted out of receiving child benefit before the child benefit charge was introduced, in which case you can skip ahead to the next story with a clear conscience.

However, if you are not yet registered for self-assessment and you should be paying the tax charge for 2012/13, it is already too late to register without incurring a penalty. The deadline was 5 October. The deadline for submitting the actual tax return is next 31 January (for online filing), but you will really need to contact us rather earlier than that.

Who counts as a partner?

For the purposes of the child benefit tax charge, a partner is defined as anyone that you are living with (or have lived with) during the tax year. So this can put someone in the awkward position of having to contact a former partner to establish if they are claiming child benefit and/or who has the higher income. HMRC will help if there is a problem.

Child benefit is only ever paid to one claimant, and normally this will be the person the child is living with. However, someone else could make the claim if they are contributing towards the child's upkeep at least as much as the amount of the child benefit. The contribution need not be monetary, and the cost of clothes, presents and pocket money all count.

Depending on your level of income, it might be possible to reduce the tax charge for the current tax year by making additional pension contributions but you will need to organise this by 5 April 2014. If you need our help, please get in touch.

Voluntary VAT registration

Even if you are trading below the compulsory VAT registration limit (£79,000 for 2013/14), there are some circumstances where voluntary registration could be worthwhile.

If all or most of your customers are VAT registered, voluntary registration allows you to recover the VAT incurred on your purchases. Because you can pass on the VAT charge to your customers, your income should not be greatly affected, especially if your customers are other businesses that can reclaim the VAT on your charges. Even better, if your sales are VAT zero-rated, registration will result in you receiving VAT refunds. You will even be able to reclaim some of the VAT on goods and services you incurred before you registered.

Workplace pensions – employer contributions roll out

Auto-enrolment is well underway, requiring employers to enrol their employees into pension schemes that meet certain minimum standards. The new system is being rolled out over a five-and-a-half year period and it requires all employers – no matter how small – to make pension contributions for their employees. Failure to comply will result in hefty fines.

The auto-enrolment process began in October 2012 and will be completed in February 2018. Employers can find out the dates when they are required to start auto-enrolment (known as the staging dates) by entering their PAYE reference into a special tool on the Pensions Regulator's website (www.thepensionsregulator.gov.uk).

An employer's obligation

Employers must automatically enrol all workers who are aged between 22 and state pension age if they earn more than the basic personal allowance (£9,440 for 2013/14). Employees who are aged 16 to 21 are not subject to the auto-enrol requirement, but the employer must provide information to all employees in this age bracket about their right to join a pension scheme.

Employees who are automatically enrolled have the right to opt out of auto-enrolment and those who are outside auto-enrolment have the right to join. Employers should make employees aware of auto-enrolment and how it affects them and they must not encourage employees to opt out.

Every employer has to provide a qualifying pension scheme into which employees are automatically enrolled. The scheme must meet:

- The automatic enrolment criteria;
- The qualifying criteria; and
- The minimum requirements.

If you have an existing pension scheme that you want to retain, it must also meet the qualifying conditions. Most schemes are likely to be UK schemes but non-UK schemes can qualify. A UK scheme can be an occupational or personal pension scheme and it must be a registered pension scheme for UK tax purposes. It can be based on defined contributions, defined benefits or it can be a hybrid. Employers must be able to enrol workers into the scheme without their consent and it must not contain barriers to entry, such as a minimum age.

The minimum requirements depend on the nature of the

"Every employer has to provide a qualifying pension scheme into which employees are automatically enrolled."

The legislation also imposes conditions on the minimum level of contributions, as set out in the table below.

Date	Employer minimum contribution	Total minimum contribution
Staging date to 30 September 2017	1%	2%
1 October 2017 to 30 September 2018	2%	5%
1 October 2018 onwards	3%	8%

scheme. They are set out in a guidance booklet, 'Pension schemes: Pension schemes under the new employer duties', which is available to download from the Pensions Regulator's website (www.thepensionsregulator.gov.uk).

The process

An employer who wants to set up a new scheme can obtain advice from a financial adviser, an employee benefit consultant or a provider. There are a number of providers to choose from, including the National Employment Savings Trust (NEST), which was set up by the Government and has to accept all employers that apply to join its scheme.

The Association of British Insurers produces a list of their members providing qualifying schemes.

Employers have to register their chosen scheme with the Pensions Regulator within four months of their staging date. Registration is mandatory and employers may be fined for failing to register.

Employees' contributions together with the related tax relief make up the difference between the total and the employer contributions. Once the employer has deducted the contributions, they must be paid into the pension scheme no later than the 22nd of the next month, or by the 19th if they are paid by cheque. Employers have to keep records of contributions for at least six years. Schemes must comply with various reporting and regulatory duties such as filing regular scheme returns.

It is advisable for employers to ensure that their payroll systems can cope with auto-enrolment well before their stage date. Mistakes and late payments could be subject to expensive penalties. Auto-enrolment is a legal obligation and one that employers cannot ignore.

Employers should ensure that their workers are familiar with auto-enrolment and what it means to them. Help and guidance is available from the Pensions Regulator and we are also here to advise you.

Self-employment rules to change for LLPs?

The Government has consulted on proposals to remove the presumption of self-employment for limited liability partners (LLPs) and to tax salaried members as employees. HMRC is now considering the responses received with a view to introducing new rules from April 2014.

Limited Liability Partnerships (LLPs) are something of a hybrid between a traditional partnership and a company. Like a company (and unlike a traditional partnership), members of an LLP benefit from limited liability. However, like a traditional partnership, the individual members of the LLP are currently taxed as self-employed partners. Self-employed people are taxed more favourably than employees and HMRC is concerned that LLPs are being used to exploit these tax advantages.

The current "self-employed" treatment applies, even if the partners have more in common with employees than full partners in a traditional partnership. For example some LLP members receive fixed salaries, are not exposed to risk, do not take part in the management of the business and are not entitled to a share of profits or assets.

The Government plans to remove the potential for LLPs to be used to disguise employment and avoid employment taxes. A proposed change to the rules will remove the presumption that all individual members of an LLP should be taxed as self-employed partners. Instead, a member who meets the test for a 'salaried member' will be taxed as an employee and will have to pay income tax and primary Class 1 National Insurance contributions (NICs) under PAYE in the same way as other employees. The LLP will be liable to secondary Class 1 NICs.

Under the proposed rules, members of an LLP will be treated as salaried if they fulfil one of the two following conditions.

Condition one

They are an individual member who, if the LLP were continued as a partnership by other members of the LLP, would be regarded as an employee of the partnership. This test employs the normal criteria to determine whether someone is employed or self-employed.

Condition two

They are an individual member who does not meet the first condition but who:

- has no economic risk (loss of capital or repayment of drawings) if the LLP makes a loss or is wound up;
- is not entitled to a share of the profits; and
- is not entitled to a share of any surplus assets on a winding up.

This test distinguishes full partners who share profits and losses from those who are essentially employees with remuneration that is not dependent on the LLP's profitability. An LLP member will be treated as a salaried partner where the substance of the relationship is one of employment. If you need to review your partnership and employment status before the intended rules change in April 2014, let us know.

Repair or replace but don't renew

There has been a change in the rules about what expenditure is deductible for calculating the profit on a property letting. The so-called 'renewals basis' has been abolished, affecting landlords of partly furnished residential property.

Deciding what expenditure is deductible has always been a cause of contention between landlords and HMRC and is not even clear-cut when it comes to something as straightforward as buying a new carpet. The problem arises because items such as tables, beds, carpets, cookers and washing machines are classed as capital expenditure. A normal trading business can claim capital allowances, but these are not available if assets are used in a dwelling house, unless the property rental qualifies as a furnished holiday letting.

Wear and tear vs. renewals

If you let out furnished property, you can claim a wear and tear allowance to cover the cost of providing furniture. The allowance is 10% of the rent received, although the rental figure is reduced for any costs that the landlord pays but which would normally be borne by the tenant, such as council tax, utility charges and water rates. The 10% deduction covers those items that tenants would usually provide themselves if the property were unfurnished. For the deduction to be available, a property should be furnished to a level that a tenant could move in and live there without having to provide anything apart from their food and clothing. At a minimum, this means beds, chairs, tables and a cooker.

Until this April 2013 you also had the alternative of using a renewals basis. For furnished property, this tended to be less popular than the wear and tear deduction because it was more complicated and only covered the replacement cost of furniture and appliances, rather than their initial cost. However, it was the only option available if you let property with some furniture, but not enough for it to qualify as furnished. Unfortunately, the renewals basis was an HMRC extra-statutory concession and it has been withdrawn from 6 April 2013.

Repair or replace?

So where does this leave you if you are renting out a partly-furnished property? Basically your only deductible expenditure of this kind is the cost of repairing or installing furnishings that would normally be found in unfurnished lettings, such as bathroom or kitchen fittings. When it comes to property repairs, there can be a fine line as to what actually qualifies. There is an important distinction between repairing the property itself (which would be deductible) and replacing a separate, distinct, asset (which would not be deductible). An item is normally treated as a separate and distinct asset in this context if it stands apart from other assets, is free-standing or can be removed.

HMRC uses the example of a kitchen refit in an unfurnished property let. The landlord needs to install a replacement boiler in a different location. She therefore decides to modernise the kitchen at the same time and so replaces the kitchen units, the fitted cooker and the hob. The kitchen is then re-plastered and re-tiled. In this case, it is the property itself that is being repaired and so the cost qualifies for a deduction. In contrast, the replacement cost of a fridge freezer is not allowed because it is an asset in its own right.

Where a landlord carries out a lot of work, the question is whether the character of the property has altered. There should not be a problem with the simple modernisation of a property. But the costs might not turn out to be deductible where, for example, a property that was previously let as student accommodation is renovated making it suitable for up-market long term letting.

Flat rate state pensions – the winners and losers

The Pensions Bill making its way through Parliament will introduce a single-tier state pension from 6 April 2016.

For future pensioners, this will replace both the basic state pension and second state pension (S2P) that make up the current system. Will you be a winner or a loser under the new scheme?

Your state pension will continue to be paid under the current rules if you are already retired or you reach state pension age by 5 April 2016. So you will not benefit from the higher single-tier pension.

If you are self-employed you will be one of the winners and receive a higher state pension, because you are not currently entitled to S2P. Other winners include people with low lifetime earnings and those with gaps in their working lives as a result of being unemployed, acting as a carer, or having a disability.

But you will be a loser if you are a high earning employee, given that you will no longer have the opportunity to accrue a high S2P. The new qualifying limits will also affect some people who make national insurance contributions or qualify in other ways for a relatively short time. You will need a minimum of between seven and 10 qualifying years rather than just a single year; and to get your maximum entitlement, you will need 35 qualifying years instead of 30 years.

Tax calendar 2013/14

Every month

1 Annual corporation tax due for companies with year ending nine months and a day previously, e.g. tax due 1 January 2013 for year ending 31 March 2012.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

If the date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

October 2013

31 Deadline for 2012/13 self assessment return if filed on paper.

November 2013

2 Submit employer forms P46 (car) for quarter to 5 October 2013.

December 2013

30 Last day to submit 2012/13 tax return online to have unpaid tax of under £3,000 collected through the 2014/15 PAYE code.

January 2014

14 Due date for CT61 return for quarter to 31 December 2013.

31 Submit 2012/13 self-assessment return online. Pay balance of 2012/13 income tax and CGT plus first payment on account for 2013/14.

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