TCP UPDATE

WINTER 2015

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Pension top up window open

The short 18 month window to make Class 3A voluntary contributions has commenced and will run to 5 April 2017. Class 3A allows existing pensioners and those reaching State Pension age before 6 April 2016 to improve their retirement income by purchasing extra State Pension. Pensioners can purchase additional State Pension of up to a maximum of £25 per week.

From 6 April 2016 a single tier flat-rate pension will be introduced for people who reach State Pension age from that date. Class 3A is designed to help people who have not been able to build much State Pension before the single tier pension is introduced.

Illustrations of the cost for different ages can be found at **www.gov.uk/state-pension-topup**. As an example, the cost for a person aged 65 to receive an additional £5 pension a week would be £4,450. Prices are lower for older pensioners because they are more likely to have a shorter life at retirement when they start paying Class 3A.

Class 3A is not a replacement for Class 3 Voluntary National Insurance contributions whereby workers can fill certain gaps in their contribution records. The government advises pensioners to ensure that they have full entitlement to the basic payment before purchasing the new top up.

HMRC gone phishing?

Phishing is the fraudulent act of emailing a person in order to obtain personal or financial information. HMRC has issued guidance to help recognise fraudulent emails.

HMRC are increasingly providing online services for taxpayers and their agents but this means a higher risk of phishing and bogus emails. These emails often ask for personal information such as date of birth, bank details or passwords. With a Self Assessment tax payment date coming soon on 31 January 2016, this may be the time to be wary of online fraudsters.

HMRC have confirmed that they will never send notifications of a tax rebate by email and will also never ask people to disclose personal or payment information by email. In addition HMRC have responded to these attacks by issuing guidance on how to tell if an email is fraudulent.

How to tell if an email is fraudulent

Often the fraudster will create an email address which looks similar to HMRC's email address for example 'refunds@hmrc.gov.uk'. More examples of false email addresses can be found in a list provided by HMRC - **https://goo.gl/3QLfie**

Another risk area is a link to a bogus website in an email or text. The page may look genuine but it often contains links, display fields or boxes which ask for bank or credit card details and passwords. HMRC have warned that some phishers also add links to genuine HMRC websites to try and make the emails appear genuine.

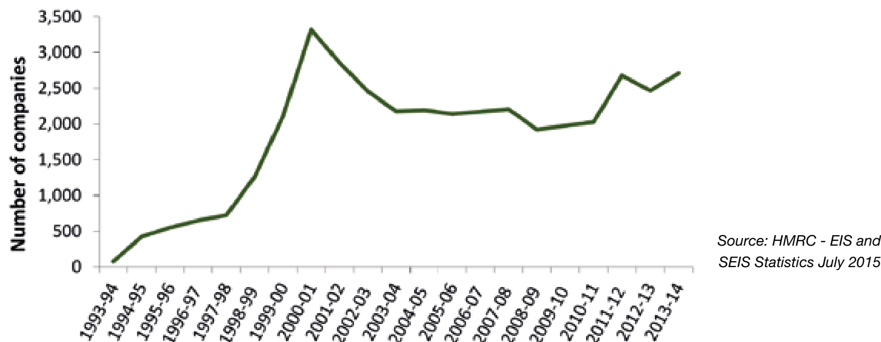
Fraudsters often send high volumes of phishing emails in one go and they may therefore start the email with generic greetings for example 'Dear Customer' rather than a name. Lastly caution should be taken with any attachments on the email as these may contain viruses which are designed to steal personal information from the recipient's computer.

Reporting phishing emails

HMRC have advised that any suspicious emails should be sent to **phishing@hmrc.gsi.gov.uk**. Where personal information has mistakenly been supplied in a reply to an email or text the details of what has been disclosed eg name, address, but not the actual details, should be sent to **security.custcon@hmrc.gsi.gov.uk**.

Why it doesn't pay to ignore the Enterprise Investment Scheme

The Enterprise Investment Scheme (EIS) is now over 20 years old. This is quite a remarkable achievement for a tax break. A change in government often results in the demise of one tax break and the invention of a 'new and better' tax relief. There have been amendments to EIS over the years but it still attempts to help smaller trading companies raise finance by offering a range of tax reliefs to investors who purchase new full-risk ordinary shares in those companies.



Source: HMRC - EIS and SEIS Statistics July 2015

The chart shows the number of companies raising funds in the first 20 years of the scheme. The peak in 2000 reflects the dot-com boom. In 2013/14, 2,710 companies raised a total of £1,457 million of funds under the EIS.

What are the tax breaks?

Two of the key tax breaks are:

- income tax relief - investors may be given income tax relief at 30% on their investments of up to £1,000,000 a year
- CGT exemption - gains on the disposal of EIS shares are exempt.

For many investors who are new to a company, these reliefs may be the key additional incentives to invest. The income tax relief enhances the effective dividend yield that is anticipated from the investment. The CGT exemption removes gains from a charge to tax, without limit, on shares that have qualified for income tax relief. Therefore companies wanting to raise finance for a new venture should consider whether the EIS scheme could apply to them. New companies can also consider the junior sister of EIS, the Seed Enterprise Investment Scheme (SEIS).

Neither of these tax breaks will be available if the person is 'connected' to the company. For example an individual will be connected with the company if he controls more than 30% of the ordinary share capital of the company.

If, however, a number of individuals are setting up a new venture, an EIS or SEIS scheme could provide the tax breaks for any of the individuals who hold less than 30% of the shares. Where funds needed to establish the new venture are relatively small, the business owners may consider it is not worth while incurring time and costs to set up an EIS or SEIS scheme. The income tax relief on a small investment may not be considered to be worth the effort.

But they should not forget the power of the CGT exemption. Consider the recent tax case of the unfortunate Mr Ames.

The skydiver

Mr Ames was a skydiver. He realised that the risks and costs of the sport, together with the British weather, limited the growth of his sport in the UK. He had the idea of teaming up with a small number of other individuals to provide the first UK indoor skydiving simulator.

The company applied for share subscriptions to fall within EIS, HMRC agreed and the company issued Mr Ames with the relevant form for him to submit to HMRC. He did not complete the form because, although he had paid £50,000 for his shares in 2005, his income was below the personal allowance for that year and the preceding year.

The company prospered and Mr Ames was able to sell his shares for £333,200 in 2011. When he submitted his tax return for the disposal he submitted the EIS form.

HMRC accepted that all relevant EIS conditions had been met and said that, had Mr Ames made a claim for EIS income tax relief, no CGT would have been payable on the disposal of the shares. However Mr Ames had not made a claim and was no longer within the time limit. So the capital gain of £283,200 was taxable rather than tax free. The tax tribunal agreed with HMRC.

Please do contact us if this is an area of interest. We can help to guide you through the implementation of a scheme which is suitable for your circumstances.

A new register for all companies

UK company law already requires certain information on company directors and the registered legal owners of company shares to be made publicly available. One of the aims of the Small Business, Enterprise and Employment Act which passed into law earlier in the year is to ensure that it is clear to anyone doing business with a private company who really controls that business - its 'beneficial owners'.

This will be achieved by requiring UK companies to:

- maintain and keep open for public inspection a register of persons with significant control (PSC)
- file PSC information at Companies House (together with an annual 'check and confirm' process which will replace the annual return).

The expected implementation dates are for companies to keep a PSC register from April 2016 and to file with Companies House from June 2016.

Apart from companies already subject to similar requirements (such as listed companies), every UK company will be required to take reasonable steps to identify every individual who has, directly or indirectly, significant control over the company. It is envisaged that the PSC regime will be extended to LLPs through secondary legislation. If the company does not take reasonable steps to identify PSCs the company and its directors could be guilty of a criminal offence.

A PSC will be any individual who has an interest in more than 25% of the shares or voting rights, or who otherwise exercises control over the management. This includes where the 25% interest is held individually or jointly, for example as one of a number of members of a firm that is not a legal person. There are provisions for establishing if an individual has control via a trust or fund.

A PSC will be required to notify the company of their interest (or to confirm their interest to the company). In addition, a company may require any person who it believes knows the identity of a significant controller (or knows the identity of someone likely to have that knowledge) to provide relevant information.

Although this legislation imposes further burdens on companies and some individuals, there is an advantage for all businesses dealing with companies in that it will be possible to check who really controls the company.

If you would like any help to steer you through this potentially complex legislation, please contact us.

Property income - repairs and replacements - more changes on the way

There have been some recent changes to the amounts that can be claimed as repairs or replacements for landlords of residential properties but, despite these changes, the government is proposing further legislation in this area to be introduced from April 2016.

The current treatment of repairs and replacements for residential property lettings is a bit of a mess. The tax relief can depend on whether the property is let furnished, unfurnished or partly furnished. In addition there are different rules for furnished holiday lets.

The proposals therefore attempt to provide consistent treatment. However, no changes are proposed for furnished holiday lets.

Partly furnished or unfurnished properties

Tax relief is currently given for the repair of a property, such as repainting the inside or the outside of the property. If an 'integral fixture' is replaced, tax relief is also given as this normally constitutes a 'repair' of the property. There is currently no relief for the replacement of furnishings. From April 2016 it is proposed that tax relief will be given for all these items. Examples of integral fixtures and furnishings are shown below.

Fully furnished properties

Tax relief is currently given for the repair of a property and this also includes the replacement of integral fixtures. In addition a wear and tear allowance of 10% of the net rent is given to cover the cost of replacement furnishings. From April 2016 the wear and tear allowance will disappear to be replaced with the same replacement relief as described above for partly furnished properties.

Examples of:

Furnishings

- movable furniture such as beds or suites
- televisions
- fridges and freezers
- carpets and floor-coverings
- curtains
- linen
- crockery or cutlery
- beds and other furniture.

Integral fixtures

- baths
- washbasins
- toilets
- boilers
- fitted kitchen units.

How much relief will be given?

The new replacement relief will give relief for the cost of the replacement asset, less any proceeds received from the old asset that is being replaced. No relief will be given for any furnishings that have not been in the property before. Also, any element of the replacement asset that represents an improvement would be excluded from the replacement relief. The replacement will include an improvement if the new asset can do more or if it can be used to do something that it could not do before. For example, replacing a washing machine with a washer-dryer is an improvement. If the washer-dryer cost £600, and the cost of buying a new washing machine like the old one would have been £400 then the replacement furniture relief will be £400 (£600 less the £200 that represents the difference in cost between a washing machine and the washer-dryer).

Winners and losers

Owners of properties which are not fully furnished are clear winners from the change. No relief for furnishings is given at the moment. It therefore makes sense, if possible, to defer replacement expenditure until 6 April 2016 as relief will be available.

Owners of fully furnished properties may be winners or losers depending upon how often, and at what cost, furnishings are replaced. The 10% wear and tear is given whether or not any actual costs are incurred. For this group too it therefore makes sense to defer replacement expenditure until 6 April 2016.

Fit for Work

Businesses, particularly small businesses, can have significant problems coping when an employee is off work for a long time.

There is a very strong evidence base for sickness absence that shows that the sooner the causes of absence are identified, and acted upon, the better. Intervention at four weeks, compared to six months, has a greater impact as an employee is more likely to still have an attachment to work. The longer an employee is off work, the lower their chances of ever returning to work.

The government recognised this was an issue and started a new range of services to help employers and employees in this situation towards the end of 2014. These services are still being developed but should be fully in place by the end of this year. The key element of 'Fit for Work' is an independent assessment of an employee which provides a plan helping the employee to get back to work.

The service is delivered by the NHS in Scotland and by a private sector partner in England and Wales. There are no equivalent plans for Northern Ireland.

Go to **http://fitforwork.org/** or **http://fitforworkscotland.scot/** for more information.

What impact does the Bribery Act have on your business?

It will come as no surprise to many that a UK company or partnership can be criminally liable if it pays a bribe to gain business. It may be a surprise to know that a business commits a criminal offence if a person 'associated with it' bribes another person for the benefit of the business. The Bribery Act 2010 introduced such an offence under the heading of 'failure of commercial organisations to prevent bribery'. There is, however, a defence against the offence if the business has put in place 'adequate procedures' designed to prevent persons associated with them from bribing others on their behalf.

'Persons associated with a business' is a broad term – it includes employees and agents of the business but may also include distributors, contractors and suppliers.

Recently, the government published a document looking at the awareness and impact of the Bribery Act among small and medium sized businesses. A survey of businesses which are currently exporting or planning to export was undertaken. Just over half of the businesses had heard of the Bribery Act. Most of those aware of the Act knew of the offence of corporate failure to prevent bribery and that the provisions apply to business conducted abroad as well as in the UK.

The results do mean that a lot of businesses are not aware of the Bribery Act. The survey also revealed that many of the businesses that were aware of the Bribery Act were not aware of the Ministry of Justice guidance published to help commercial organisations understand the procedures they can put in place to prevent persons associated with them from bribing.

The government wants businesses to consider the impact of the Bribery Act but also wants businesses to take a proportionate, pragmatic and low-cost approach to winning business without bribery. You do not need to put bribery prevention procedures in place if there is no risk of bribery on your behalf but it is worth looking at a 'quick start guide' issued by the Ministry of Justice to get an initial perspective of procedures you may need to put into place.

We can also help you assess the risk of bribery in your business.

The birth of two types of income tax

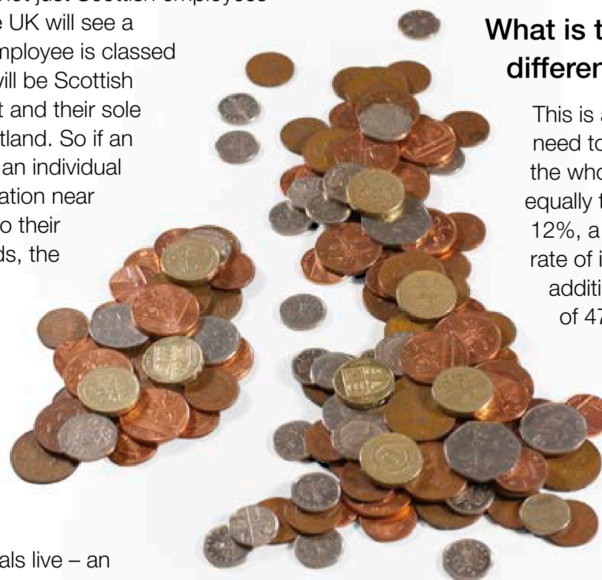
On 6 April 2016, a fundamental change will be made to the taxation system for UK resident individuals. Those who are resident in Scotland will pay two types of income tax on their non-savings income.

The main UK rates of income tax will be reduced by 10p for Scottish taxpayers and in its place the Scottish Parliament will be able to levy a Scottish Rate of Income Tax (SRIT) applied equally to all Scottish taxpayers. If the SRIT is set at 10p then income tax rates will be the same as in the rest of the UK. SRIT can however be reduced to zero and there is no upper limit.

Importantly, this change may affect not just Scottish employees and employers. Any employer in the UK will see a change to PAYE procedures if an employee is classed as a Scottish taxpayer. Individuals will be Scottish taxpayers if they are UK tax resident and their sole or main place of residence is in Scotland. So if an employer based in England recruits an individual who stays in temporary accommodation near to the employer's base but returns to their family home in Scotland at weekends, the employer has a Scottish employee.

HMRC have given some guidance as to what this will mean for employers and there is good news:

- HMRC will identify those individuals who will be Scottish taxpayers based on their records of where individuals live – an employer will not have to make any assessments on taxpayer status. Individuals moving into or out of Scotland will be encouraged by HMRC to notify them of a change of address.
- Scottish taxpayers will have their tax codes prefixed with the letter 'S'. There will be no requirement to include the SRIT separately on payslips. Payroll software will however have to cope with the possibility of SRIT not being 10%.



What is the likelihood of there being different rates?

This is a matter for the Scottish Parliament. SRIT will need to be set every year for only one tax year and for the whole of that year. The rate needs to be applied equally to all Scottish taxpayers so if SRIT is set at 12%, a basic rate taxpayer would have a marginal rate of income tax of 22% (rather than 20%) and an additional rate taxpayer would have a marginal rate of 47% (rather than 45%). So lower earners will have a higher percentage increase in their tax bill compared to higher earners. This factor will not encourage the Scottish government to set a higher rate in 2016.

However, Scotland is expected to receive complete control over income tax bands and rates in 2018, under new powers devolved in the Scotland Bill.

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