LyonGriffiths
Chartered Accountants Tel 01270 624445

LG News

October 2018

Volume 9 Issue 10

Class 2 NICs to remain

Self-employed earners (i.e. sole traders or partners) over the age of 16 and below state retirement age are currently liable to both Class 2 and Class 4 National Insurance contributions (NICs) unless specifically excepted by provisions contained in the Social Security Contributions and Benefits Act 1992.

Former Chancellor, George Osborne, made proposals to abolish Class 2 NICs and reform the system for paying Class 4 NICs. The proposals were designed to simplify the tax system for the self-employed and offer them more equal access to contributory benefits. However, the Treasury recently announced that it will not now proceed as planned with the abolition of Class 2 NICs, which was originally scheduled for April 2018, then delayed to April 2019. It is estimated that by not going ahead with the planned changes, the government will save some £360m for each of the three years to 2021 based on the original impact assessment.

Paying Class 2

In broad terms, Class 2 contributions are the entry fee that self-employed people pay to enter the contributory benefits system.

The newly self-employed must notify their liability to pay Class 2 contributions to HMRC. Penalties may be imposed for failure to notify chargeability.

Class 2 contributions are payable at a flat weekly rate - £2.95 per week in 2018/19.

From 2015-16 onwards, Class 2 contributions are collected through the self-assessment system, which means that they can be paid together with income tax and Class 4 NICs in one process on the 31 January following the end of the relevant tax year.

Those who want to pay their contributions more regularly can set up a Budget Payment Plan (assuming they are up to date with their self-assessment payments) and make payments towards their final tax and NICs liability weekly or monthly by direct debit in advance of the payment deadlines.

As indicated above, liability for Class 2 NICs is reported through self-assessment. Those that report profits below the small profits threshold (SPT), £6,205 for 2018-19 (£6,025 for 2017-18), are not liable for Class 2 NICs, although they can pay voluntarily to protect their entitlement to contributory benefits.

For these purposes, 'profits' has the same meaning as given for Class 4 NICs, which broadly, means the charge is based on 'all profits ... immediately derived from the carrying on or exercise of one or more trades, professions or vocations ... chargeable to income tax under ITTOIA 2005, Pt. 2, Ch. 2 for the year of assessment and [which] are not profits of a trade, profession or vocation carried on wholly outside the UK'.

Abandoned plans

Exchequer secretary to the Treasury, Robert Jenrick, recently made a written ministerial statement in which he said that, after reviewing evidence concerning the impact on self-employed individuals with low profits, the government will not proceed with the Class 2 NICs changes.

Mr Jenrick said that 'a significant number of self-employed individuals on the lowest profits would have seen the voluntary payment they make to maintain access to the state pension rise substantially.

'Having listened to those likely to be affected by this change we have concluded that it would not be right to proceed during this parliament, given the negative impacts it could have on some of the lowest earning in our society.

'Furthermore, it has become clear that, to the extent that the government could address these concerns, the options identified introduce greater complexity to the tax system, undermining the original objective of the policy.'

The future

However, Mr Jenrick went on to say that the government remains committed to simplifying the tax system for the self-employed, and will keep this issue under review in the context of the wider tax system and the sustainability of the public finances. He also confirmed that the government still intends to legislate for reforms to the NICs' treatment of termination payments and income from sporting testimonials, which were set out in the draft NICs Bill published on 5 December 2016.

Inside this issue:

Cloud Accounting

For further information including a free demo please call
Alison Grocott
on 01270 624445
or email
alisongrocott @lyongriffiths.co.uk

Wealth Management

There is currently speculation that Chancellor Philip Hammond will take the Autumn 2018 Budget as an opportunity to raise NICs' rates. Future changes in this area may be expected.

Help-to-Save accounts go live

Many people on low incomes who wish to build up a savings pot can now register for a government-incentivised Help-to-Save account. The launch of the new account follows an eight-month trial, with over 45,000 customers who deposited over £3 million.

The new scheme is easy to use, flexible and secure, will help those on low incomes build up a 'rainy day' fund, and encourage savings behaviours and habits. How much is saved and when is up to the account holder, and they don't need to pay in every month to get a bonus.

The scheme, administered by HMRC, will be open to UK residents who are:

- entitled to Working Tax Credit and receiving Working Tax Credit or Child Tax Credit payments;

- claiming Universal Credit and have a household or individual income of at least £542.88 for their last monthly assessment period (though note that payments from Universal Credit are not considered to be part of household income);

- People living overseas who meet either of these eligibility conditions can apply for an account if they are:

- a Crown servant - or their spouse or civil partner;

- a member of the British armed forces - or their spouse or civil partner.

The new scheme is easy to use, flexible and secure, will help those on low incomes build up a 'rainy day' fund

Account holders can save between £1 and £50 every calendar month and accounts last for four years from the date the account is opened. After two years, savers get a 50% tax-free bonus on savings. If saving continues there is another 50% tax-free bonus after four years.

On maximum savings of £2,400 over 4 years, the overall bonus would be £1,200. To apply, savers can visit www.gov.uk/helptosave or use the HMRC app. Opening an online account should be straight-forward and take less than five minutes.

VAT on holiday accommodation

Letting of residential accommodation is generally an exempt supply for VAT purposes. However this exemption does not apply to holiday accommodation (includes furnished and non-furnished holiday lettings. The definition of 'holiday accommodation' for these purposes includes property that is advertised or held out as holiday accommodation and those consider suitable for holiday or leisure use. It is not restricted to periods of letting or availability.

Supplies of holiday accommodation are therefore taxable supplies and should be standard-rated, which means that if the rental income goes above the VAT registration threshold (currently £85,000 per year), the landlord will have to register for VAT and collect VAT from the tenants.

Care is needed when applying the rules as there are exceptions - for example, for longer stays. A UK property let to visitors under an Airbnb (or similar) arrangement should generally qualify as holiday accommodation, but care should be taken.

Registering for VAT

VAT applies once the property provider has VAT registered, which is compulsory where their taxable turnover for 12 months exceeds the current £85,000 threshold.

Bureau Outsourcing

There are separate rules for 'non-established' providers of VATable supplies (i.e. providers based outside the UK), where a zero registration threshold applies. Those in such a position will need to consider their obligations and responsibilities carefully.

Voluntary registration

It is possible to voluntarily register for VAT before reaching the turnover threshold. This may be beneficial to those seeking to recover VAT. However, the cost-benefit analysis of price increases should be measured against VAT recovery potential before making a voluntary registration application. By not charging VAT, the property provider has a competitive advantage over hotel chains, but in the case of well situated city properties, adding VAT may not be overly disadvantageous for bookings.

VAT registration applies to the provider, i.e. the owner of the property. In the case of an individual, this VAT registration will render not just their property income, but all potentially taxable income subject to VAT, which could be onerous. By the same token, all such personal income counts towards the VAT registration threshold, so starting to let out a property could tip an individual over the VAT registration threshold.

For larger Airbnb type operations, involving multiple properties, it may be preferable (for VAT) to own the properties in a separate entity such as a company or even a partnership. Multiple tax and legal considerations apply to transferring property ownership, but for VAT registration purposes at least, a partnership route might be a more viable option than transferring the properties to a separate corporate entity.

A simple decision to generate additional income from an existing asset may not always be the straight-forward option it appears. Sensible up-front structuring and advice can mitigate potential downsides.

Wills and Trusts

HMRC launch MTD campaign

Accounts and Audit

According to recent research undertaken by the Institute of Chartered Accountants in England and Wales (ICAEW), over 40% of businesses that will be affected by Making Tax Digital (MTD) for VAT are not yet aware of it. With only six months to go until MTD goes live for some businesses in April 2019, HMRC have only recently launched a major communications campaign to try and build awareness amongst small businesses.

The ICAEW survey also shows that although there has been a significant increase in the number of businesses now using accounting software, a quarter of all businesses are still using a paper based accounting system - unchanged from two years ago. Paper based records will not be permissible for MTD for VAT.

From 1 April 2019, MTD for VAT will become compulsory for VAT registered businesses making annual taxable supplies of over £85,000. New rules will make digital record keeping for VAT compulsory as well as introducing a new requirement to file VAT returns directly from software. Many businesses currently type the figures for their quarterly VAT return directly into a free form provided on the government's GOV.UK website. In future all VAT registered businesses within the scope of MTD will have to use accounting software to complete their VAT returns.

Overall, 38% of all UK businesses now use accounting software for keeping their accounting records, a significant increase since 2016. This increase seems to have come from businesses which had previously been using a mixture of electronic and paper-based systems.

Only 54% of VAT registered businesses currently use accounting software. The proportion of all businesses relying on paper based records alone remains unchanged at 25%, and this includes 13% of those businesses that will need to implement MTD for VAT.

Of those businesses we surveyed, 34% will be relying on their accountant or tax adviser to deal with the changes for them, 20% will be buying new accounting software and 15% have done so already. However, 20% of businesses that will need to implement MTD for VAT have not yet made any preparations for it.

HMRC guidance

HMRC have issued new guidance on how VAT businesses and other VAT entities can get ready.

The guidance confirms that the pilot, which started in April 2018, is still currently in a private stage and available only to invited volunteer VAT businesses and their agents. HMRC will continue to limit the number and types of business invited to join the pilot, stating: 'This is so we can work with software providers, testing our systems and their products on a small scale before opening Making Tax Digital to a wider audience.'

over 40% of businesses that will be affected by Making Tax Digital (MTD) for VAT are not yet aware of it.

The latest guidance also states: 'We'll publish details of the VAT software available later in the year, when we open the VAT pilot to more businesses'

Interestingly, the guidance also advises that HMRC will give businesses until 31 March 2020 to make sure there are digital links between software products. Before that date, cut and paste will be an acceptable way to transfer information.

The exception to this is where return information is to be transferred to a software product enabled for an Application Programming Interface (an API provides a secure link between software and HMRC) and designed to submit the 9-box VAT return (such as bridging software). In those circumstances the transfer of information must only be digital.

Whilst the ICAEW says it is keen to help make MTD a success and also ensure that businesses get this right, it believes that preparation time is running out.

It is worth noting that of course, not all VAT registered businesses will be within the scope of the new rules. Around 40% of all VAT registered businesses are registered voluntarily, their turnover being below the VAT threshold. Such businesses will not fall within the scope of MTD from April 2019.

October questions and answers

Q. I bought my house in 1998 and I lived in it until 2000 when my employer required me to work in Spain. I returned to live in the house in 2005 and have lived there until now. I have never owned any other properties. Will I qualify for full private residence relief for capital gains tax purposes when I sell my home?

A. Based on the information provide, you should be entitled to full relief.

The qualifying periods of absence are:

a) absences for whatever reason, totalling not more than 3 years in all

b) absences during which you're in employment and all your duties are carried on outside the UK

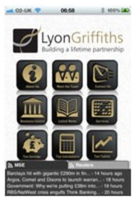
c) those totalling not more than 4 years when either

- the distance from your place of work prevents you living at home
- your employer requires you to work away from home in order to do your job effectively

You'll keep the exemption for absences b) and c) if you can't return to your dwelling house afterwards because your existing job requires you to work away again. The absences at b) and c) also apply if the employment was that of a spouse or civil partner.

Q. I would like to give a very close friend a cash wedding gift of £10,000. What are the inheritance tax implications of making this gift?

Like Us



Tax Solutions

A. The cash gift is likely to qualify as a potentially exempt transfer (PET), meaning that if you survive for seven years after making the gift, it will be completely free from inheritance tax. If you die within the seven- year period, taper relief may be available.

Depending on your circumstances, it may be possible to combine the various annual exemptions to reduce the PET. For example:

Gift £10,000

Less annual exemptions from current and previous years (£6,000)

Less gift on marriage (£1,000)

Reduced potentially exempt transfer (PET) £3,000

Q. I do not live in the UK, but wish to set up a UK company of which I will be the only director. The company is not a property company, and there will be no UK employees in the short term. Will the company be liable to tax in the UK or, as sole owner of the company, in the country where I reside?

A. It is important to know whether a company is UK resident. If it is, subject to certain conditions, it will be chargeable to UK tax on its worldwide income and gains. Non-UK resident companies may be subject to UK corporation tax only if they have a permanent establishment in this country.

HMRCs International Tax Manual (paragraph INTM120030) confirms that:

A company is resident in the UK for the purposes of the Taxes Acts if

- it is incorporated in the UK (with certain exceptions) or

- the central management and control of its business is in the UK.

Even if a company is not incorporated in the UK, it is still resident in the UK if it is centrally managed and controlled in the UK. One of the leading cases on this issue, De Beers Consolidated Mines Ltd v Howe (1906) 5 TC 198, involved a company that was registered in South Africa where it worked diamond mines. The company's head office and shareholders' general meetings were held in South Africa, but the directors' meetings took place in both South Africa and the UK. The majority of directors who made the key decisions lived in the UK.

In his judgment the Lord Chancellor, Lord Loreburn, stated:

'A company resides ... where its real business is carried on ... and the real business is carried on where the central management and control actually abides.'

Therefore, even though the company was incorporated in South Africa and its main trading operations were there, the House of Lords held that the company was UK resident because the majority of the directors who had the overall control were situated in London.

There is an additional requirement for dual resident companies, effective from 30 November 1993. To resolve how a dual resident company is to be taxed, reference is made to the double tax treaty (if any) that the UK has with the other country. Most double tax treaties have a tie-breaker clause to determine which country has the taxing rights. If residence has been or would be awarded to the UK treaty partner, the company is called 'treaty non-resident' (TNR). Corporation Taxes Act 2009, s 18 provides that a TNR company is not resident for UK tax purposes. In summary, this means that a dual resident company is resident in the country that has priority per the relevant double tax treaty.

October key tax dates

1 - Due date for payment of Corporation Tax for the year ended 31 December 2017

5 - If a Tax Return has not been received, individuals and trustees must notify HMRC of new sources of income and chargeability in 2017/18

14 - Return and payment of CT61 tax due for quarter to 30 September 2018

19 - Tax and Class 1B national insurance due on PAYE settlements for 2017/18

19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/10/2018 or quarter 2 of 2018/19 for small employers

LyonGriffiths
Building a lifetime partnership

THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES

CHARTERED TAX ADVISERS

SIFA MEMBER

hcwa

17 Alvaston Business Park,
Middlewich Road, Nantwich,
Cheshire. CW5 6PF

Email enquiries@lyongriffiths.co.uk
Telephone 01270 624445
www.lyongriffiths.co.uk