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LG News

Treasury under pressure to debate probate 'tax'

In its commentary on the economic and fiscal outlook published alongside details of the Spring Statement, the Office of Budget Responsibility (OBR) has pointed out that the government has altered its proposed schedule of fees payable for an application for a grant of probate. The new rates take effect from April 2019, and range between £250 and £6,000, depending on the value of the estate.

Prior to the change, bereaved relatives paid a flat £215 fee for probate, the charge for securing legal control over a deceased person's estate. It is estimated that the increase will mean that each year, some 300,000 estates will face larger bills. The charge will rise according to an estate's value, leaving some 56,000 estates having to pay £2,500 to £6,000. The hike in fees represents a 2,700% increase in cost for estates valued over £2m.

The OBR highlighted that, given the structure of the fees, the Treasury expects the Office for National Statistics (ONS) to classify them as a tax on capital rather than a payment for a service.

The new probate fee structure is expected to generate £155 million a year in additional tax receipts. There will be a small knock-on effect to inheritance tax receipts due to the incentive for individuals with estates worth close to thresholds in the new probate fee structure to reduce the value of their estates (through genuine or contrived means) to pay a lower fee. This effect is expected to be relatively small (around £5 million a year), since the inheritance tax liability itself already provides a significant incentive to reduce the value of estates. The Government has decided to offset the expected yield from probate fees by removing the same amount in 'negative spending' from the Ministry of Justice departmental budget.

The Treasury is now facing calls for the new proposals to be debated as part of the Finance Bill process.

Making Tax Digital update

VAT-registered businesses with a taxable turnover above the VAT threshold are required to use the Making Tax Digital (MTD) service to keep records digitally and use software to submit their VAT returns from 1 April 2019.

The exception to this is a small minority of VAT-registered businesses with more complex requirements. As part of planning for the VAT pilot, HMRC consulted with various stakeholders and took the decision to delay mandating for these customers until 1 October 2019 to ensure there is sufficient time to test the service with them in the pilot before they are mandated to join.

The revised timetable for implementing MTD for VAT is now as follows:

April 2019 - MTD mandated for all customers (except those that have been deferred)

October 2019 - MTD mandated for customers that have been deferred. The 6-month deferral applies to customers who fall into one of the following categories:

- Trusts
- 'not for profit' organisations that are not set up as a company
- VAT divisions
- VAT groups



April 2019

Volume 10 Issue 4

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

HMRC have published an updated version of their Making Tax Digital Mythbusters factsheet

- those public sector entities required to provide additional information on their VAT return (Government departments, NHS Trusts)
- local authorities
- public corporations
- traders based overseas
- those required to make payments on account
- annual accounting scheme users

Updated guidance

HMRC have published an updated version of their Making Tax Digital Mythbusters factsheet. The 'myths', and HMRC's comments covered in the factsheet are summarised as follows:

- Businesses don't know it's happening or what to do: HMRC state that over 80% of businesses had stated to make preparations for MTD by December 2018
- Everyone will have to join the service by 1 April: Businesses are required to join MTD and submit their VAT returns using the new service for their first VAT period which begins on or after 1 April. For the majority, who file quarterly, their first MTD returns won't be due until August or later
- Under MTD, businesses will have to provide more information than they already do: business will need to provide information to HMRC more regularly than they do now
- MTD won't reduce errors: HMRC maintain that the integrated approach offered by MTD will, in the long term, reduce reporting errors
- HMRC have underestimated the admin burden and costs to businesses for MTD: costs will differ from business to business but there are MTD-compatible solutions available at no or low cost for most businesses
- Businesses can't use spreadsheets as part of MTD: Businesses can choose to use spreadsheets to both maintain digital records and perform tax calculations, provided the spreadsheets combine with some form of 'bridging' software that will allow their VAT return data to be sent to HMRC from the spreadsheet
- Small businesses should be automatically exempt: Only those with taxable turnover above the VAT threshold of £85,000 are required to join MTD, although the c.1m VAT registered businesses below the threshold can choose to join voluntarily.
- HMRC will penalise me if I get the new process wrong: During the first year of mandation HMRC will take a light touch approach to digital record keeping and filing penalties where businesses are doing their best to comply with the law.

For further information on MTD, see the GOV.uk website.

Employee mileage allowances

Confusion often arises over differing tax treatment of mileage allowances paid to employees using their own cars for business, and those provided with a company car.

An employee using their own car for work can claim a mileage allowance from their employer, which is designed to cover the costs of fuel and wear and tear for business trips. The mileage allowance will be tax-free if it does not exceed HMRC's Approved Mileage Allowance Payment (AMAP) rates, which are currently as follows:

Cars and vans: first 10,000 business miles per year - 45p per mile; over 10,000 miles - 25p per mile

Motor cycles: first 10,000 business miles per year - 24p per mile; over 10,000 miles - 24p per mile

Bicycles: first 10,000 business miles per year - 20p per mile; over 10,000 miles - 20p per mile

Unless the employer reimburses employees at a higher rate, the payments can be paid tax-free and do not need to be reported to HMRC. However, anything paid above the approved rates is tax deductible, and must be reported to HMRC on form P11D.



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If an employer pays less than the approved rates, the employee can claim income tax relief from HMRC for the shortfall. This can be done via a self-assessment tax return or by completing form P87.

For NIC, the 45p per mile rate is used for all business miles in the tax year, not just the first 10,000 miles.

The AMAP scheme does not apply for company cars. However, employees can still claim fuel expenses for all business mileage where they pay for the fuel. The rates are lower than the AMAP rates and are updated quarterly. Current and previous rates can be found on the Gov.uk website at <https://www.gov.uk/government/publications/advisory-fuel-rates>.

Amounts paid in excess of HMRC's advisory rates will be taxable.

If the company pays for all fuel (business and private), the fuel benefit will be charged, which is based on the cash equivalent of the benefit each tax year. The fuel benefit is fixed each year (for 2019/20 it is £24,100). This figure is multiplied by the CO2 percentage figure applicable to the company car.

It is also worth noting that if the company pays for all fuel, but the employee reimburses the company for private use, as long as the amount paid back is equal to, or more than, the amount for personal fuel in the same tax year, the employer will not have to pay anything to HMRC or report on such transactions.



NMW and NLW increases take effect

New rates for the National Minimum Wage (NMW) and National Living Wage (NLW) (aged 25 and over) apply from 1 April 2019, and employers must ensure that they implement them accordingly. The rates are as follows:

- 25 and over - £8.21 per hour;
- 21- to 24-year-olds - £7.70 an hour;
- 18- to 20-year-olds - £6.15 an hour;
- under 18s - £4.35 an hour; and
- Apprentice rate - £3.90 an hour.

All other workers including pieceworkers, home workers, agency workers, commission workers, part-time workers and casual workers must receive at least the NMW.

Severe penalties may be imposed for failure to comply with NMW/NLW obligations. Broadly, the penalty percentage which may be imposed for non-compliance is now 200%. The maximum penalty is a hefty £20,000 per worker, although it may be reduced by 50% if the unpaid wages and the penalty are paid within 14 days.

For further information on the NMW, see the GOV.UK website at <https://www.gov.uk>.

April questions and answers

Q. I have some permanent employees and I also pay temporary workers as and when I need extra help. I understand that changes have recently been to the rules concerning payslips. Could you please provide some clarification?

A. Prior to April 2019, employers were only obliged to give payslips to employees. From April 2019, all workers are entitled to receive an itemised payslip. If the worker is not always paid the same amount, you need to include the hours they have worked. This will enable the worker to check they have been paid the right amount and that they have been paid at least the new National Minimum Wage (NMW) rates, effective from 1 April 2019. If you do not currently record the number of hours your staff work, you need to start doing so with immediate effect. In particular, these changes are designed to help gig economy workers and staff who regularly work overtime.

Q. I have been running my own business for several years and my turnover has recently exceeded the VAT registration threshold. I have registered with HMRC and am waiting for my VAT number and certificate. Can I claim back VAT on purchases made by the business before the registration date?

A. There is a time limit for backdating claims for VAT incurred before the effective date of registration. From the date of registration, the time limit is:

*New rates for the
National Minimum
Wage and
National Living
Wage apply from
1 April 2019*





- 4 years for goods you still have, or that were used to make other goods you still have;
- 6 months for services.

You can only reclaim VAT on purchases for the business now registered for VAT and they must relate to your 'business purpose'. This means they must relate to VAT taxable goods or services that you supply.

You should reclaim them on your first VAT return and keep records including:

- invoices and receipts;
- a description and purchase dates;
- information about how they relate to your business now.



Q. I inherited my late father's house in March 2018, which I subsequently sold in December the same year. I have never lived in the house. The total value of my father's estate is less than £175,000. Will I have to pay tax on the proceeds of the sale?

A. For tax purposes you will inherit the house at the market value at the date your father died - the probate value. If there has been no increase in value between the date of death and the date of sale, there will be no capital gains tax to pay on the disposal of the house.

Since the total value of your father's estate is less than £175,000, then assuming that he did not make any gifts in the seven years before his death, there will be no inheritance tax payable on the estate.



Download our guide "Converting to the Cloud" from our website

April key tax dates

- 1** - Making Tax Digital mandated for all VAT customers (Except those that have been deferred)
- 5** - End of 2018/19 tax year. Last day to use up your annual exemptions for capital gains tax, inheritance tax and ISA's
- 6** - Start of the 2019/20 tax year
- 14** - Return and payment of CT61 tax due for quarter to 31 March 2019
- 19/22** - PAYE/NIC, student loan and CIS deductions due for month to 5/4/2019 or quarter 4 of 2018/19 for small employers. Interest will run on any unpaid PAYE/NIC for the tax year 2018/19
- 30** - Additional daily penalties of £10 per day up to a maximum of £900 for failing to file self-assessment tax return due on 31 January 2019



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