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## LG News

### Making Tax Digital – It's not too late

Whilst we have passed the 1st April it is not too late to do something but the longer people leave it the harder the job will be to back track as they need to be compliant from the beginning of their first VAT quarter starting after 1st April 2019.

The transfer to MTD will not be done automatically by HMRC. Once you have your software in place you will need to sign up on the HMRC website before you can file your MTD return and the timing of the sign up process is critical.

Please get in touch if we can be of assistance.

### Taxpayer wins IR35 challenge

HMRC have recently lost another high-profile IR35 case. Kaye Adams, the presenter of ITV's Loose Women programme, has successfully challenged HMRC on her employment status, with a First Tier Tribunal (FTT) finding the terms of her personal services contract for BBC radio shows meant she was not an employee.

In Atholl House Productions Ltd v HMRC [2019] UKFTT 0242, TC07088, the tribunal stated that the essential issue was whether, if the services supplied by the taxpayer to the BBC had been supplied under a contract directly between the presenter and the BBC, the taxpayer would have been regarded for income tax purposes as an employee of the BBC.

Much of the argument centred on whether the written contract matched what actually occurred in practice, with particular focus on the taxpayer's ability to provide a substitute if she was not available, mutuality of obligation, and control.

The FTT also made the following important observations:

'in the current age of flexible working, when employees frequently work from home, using their own equipment, the fact that a putative employee fulfils the terms of the agreement by working from home and using his or her own computer is not as potent a contra-indicator of employment status as it once was;

Similarly, whilst requiring the putative employee to wear a uniform would be consistent with employment status, the contrary cannot be said to indicate very much; as many employees wear their own clothes to work, the fact that a putative employee wears his or her own clothes when fulfilling the terms of an agreement cannot be said to indicate that the agreement is not an employment contract; and the same cannot be said about holiday and sick pay, maternity leave and an entitlement to a pension. These are all common features of an employment contract and therefore their absence from a contract would generally be regarded as being inconsistent with the conclusion that the contract is a contract of service.

The tribunal heard evidence from the taxpayer, who made a number of points to counter claims that she had employed status. These included not being paid when she missed shows on account of family responsibilities; being suspended for three weeks and receiving no fees in that period; and that whilst on air, she would have ultimate control over which call to take, what questions to ask and what direction the show should follow.

The tribunal found in the taxpayer's favour. In doing so, the tribunal indicated a number of significant differences between her case and that of the BBC presenter Christa Ackroyd (Christa Ackroyd Media Ltd and the Commissioners for Her Majesty's Revenue and Customs, [2018] UKFTT 0069 TC06334), who was deemed to be an employee, even though she worked via a PSC. The differences included:

- Length of contract - the contract between the BBC and Ms Ackroyd's service company was much longer than in the Adams' case, where each contract was for approximately one year.



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*The minimum contributions employers and their staff must pay into their automatic enrolment workplace pension scheme increased with effect from 6 April 2019.*

- Income level -the ratio of Ms Ackroyd's non-BBC income to her BBC income was materially different, as almost all (between 96% and 98%) derived from the BBC, whereas Ms Adams had a number of other sources of income.

- Control -Ms Ackroyd was given a clothing allowance and the BBC had first call on her time, she attended BBC training sessions, and the BBC could tell her whom she was interviewing. None of these features was present in the relationship between the BBC and Adams. Ms Ackroyd was required to obtain the consent of the BBC for her non-BBC engagements whereas, in practice, this was not the case with Adams.

This case reaffirms the importance of looking beyond the contract and examining things holistically, including all the details pertaining to the individual.

### Minimum workplace pension contributions rise

The minimum contributions employers and their staff must pay into their automatic enrolment workplace pension scheme increased with effect from 6 April 2019.

From that date, the employer minimum contribution has risen from 2% to 3%, while the staff contribution also increased from 3% to 5%. As part of the 'phasing' process, the increases mean that total contributions for employees have gone up from 5% to 8%.

All employers with staff in a pension scheme for automatic enrolment must ensure that they implement the changes and ensure that at least the new minimum amounts are being paid into their pension scheme. This applies whether the employer set up a pension scheme for automatic enrolment or they are using an existing scheme.

The increases do not apply to employers using defined benefits pension schemes.

The amount employers and their staff pay into the pension scheme will vary depending on the type of scheme they have chosen and the rules of that scheme. Staff contributions may also vary depending on the type of tax relief applied by the scheme.

Most employers use pension schemes that from April 2019 will require a total minimum of 8% contribution to be paid. The calculation for this type of scheme is based on a specific range of earnings. For the 2019/20 tax year this range is between £6,136 and £50,000 a year (which equates to between £512 and £4,169 a month, or £118 and £962 a week).

Employers calculating contributions for this type of scheme should include salary, wages, commission, bonuses, overtime, statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay, and statutory adoption pay, although some schemes may specify different elements of staff pay.

It is worth reminding individuals that non-earners can still pay £2,880 a year into a pension and receive an automatic 20% boost to their contribution in tax relief. This means that on a contribution of £240 per month, the actual amount invested in the pension scheme will be £300.

Further information on the increase of automatic enrolment contributions can be found [here](#).



Platinum ProAdvisor



### VAT Flat rate scheme

The VAT flat rate scheme (FRS) is used by many small businesses to help simplify their VAT reporting obligations, although some VAT experts would argue that the scheme is not simple to use.

Broadly, the FRS is a simplified VAT accounting scheme for small businesses, which allows users to calculate VAT using a flat rate percentage by reference to their particular trade sector. When using the FRS, the business ignores VAT incurred on purchases when reporting VAT payable, with the exception of capital items which cost £2,000 or more. If the business incurs few expenses, and it operates in a sector with a relatively low FRS percentage, it will pay out less VAT to HMRC under the FRS than it would outside the scheme. Historically, many businesses have registered for VAT voluntarily before their turnover reached the VAT registration threshold, so they could make use of the cash advantage offered under the FRS.

Common percentages used by service-related businesses in recent years include:

- Accountancy and legal services 14.5%
- Computer or IT consultancy 14.5%
- Estate agents and property management 12%
- Management consultancy 14%
- Business services not listed elsewhere 12%

Since 1 April 2017, a new 16.5% FRS rate has applied for businesses with limited costs (see below). Since the rate of 16.5% of gross turnover equates to 19.8% of the net, the result is that there will be almost no credit for VAT incurred on purchases.

A 'limited cost' business is defined as one whose VAT inclusive expenditure on goods is either:

- less than 2% of their VAT inclusive turnover in a prescribed accounting period;
- greater than 2% of their VAT inclusive turnover but less than £1,000 per annum if the prescribed accounting period is one year (if it is not one year, the figure is the relevant proportion of £1,000).

'Goods' for these purposes must be used exclusively for the purpose of the business but exclude the following items:

- capital expenditure goods;
- food or drink for consumption by the flat rate business or its employees;
- vehicles, vehicle parts and fuel (except where the business is one that carries out transport services - for example a taxi business - and uses its own or a leased vehicle to carry out those services).

(These exclusions are part of the test to prevent traders buying either low value everyday items or one off purchases in order to inflate their costs beyond 2%.)



**Rent-a-room tax break remains**

HMRC's rent-a-room scheme currently allows individuals to receive up to £7,500 of gross income from renting out spare rooms in their only or main home without a liability to tax arising. Broadly, as long as income is below the annual threshold, it does not need to be reported to HMRC.

However, the emergence and growth of peer-to-peer online marketplaces and digital platforms (for example Airbnb) has made it significantly easier to advertise rooms and put those with spare accommodation in touch with a national and global network of potential occupants. HMRC are of the opinion that this type of income should not be eligible for rent-a-room relief but should instead be taxed under the normal property business income rules. Consequently, during 2018, HMRC worked on proposals to introduce a 'shared occupancy' test. The test would provide that the individual, or a member of their household, in receipt of income must have a 'shared occupancy', a physical presence for all or part of the period of the rental, with the individual whose occupation of the furnished accommodation is generating receipts.

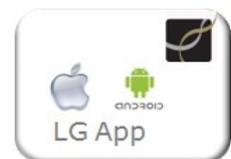
Although it was intended that this change would take effect from 6 April 2019, the government announced in the Autumn Budget 2018 that, in order to maintain the simplicity of the system, the legislation would not be included in Finance Bill 2018/19. Therefore, the rules currently remain unchanged, and rent-a-room continues to provide a valuable exemption in many cases.

As the legislation stands, in order to qualify under the rent-a-room scheme, the accommodation must be furnished and a lodger can occupy a single room or an entire floor of the house. However, the scheme doesn't apply if the house is converted into separate flats that are rented out. Additionally, the scheme cannot be used if the accommodation is in a UK home which is let whilst the landlord lives abroad.

The rent-a-room tax break does not apply where part of a home is let as an office or other business premises. The relief only covers the circumstance where payments are made for the use of living accommodation.

Finally, it should be noted that the £1,000 property allowance, which was introduced for 2017/19 onwards, generally applies in relation only to income from a property business that is not income under the rent-a-room regime.

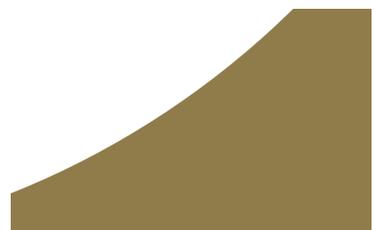
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**May questions and answers**

**Q. I have realised that I made a mistake on my most recent VAT return. What do I need to do to put things right?**

- A. You can make adjustments to correct errors on past returns if the error:
- was below the reporting threshold (broadly, less than £10,000, or up to 1% of your box 6 figure (up to a maximum of £50,000));
  - was not deliberate; and
  - relates to an accounting period that ended less than 4 years ago.



When you submit your next return, add the net value to box 1 for tax due to HMRC, or to box 4 for tax due to you.

Alternatively, you can notify HMRC of the error by submitting form VAT652 to the VAT Error Correction Team. Further information can be found here.

Make sure you keep good accurate records relating to the adjustment.



**Q. I intend to start my own business later this year but have yet to decide whether to trade through a limited company straight away. I will need to make a substantial initial investment in the business, so it is likely that I will make a loss in the first, and maybe even second, year of trading. Is loss relief the same for sole traders and limited companies?**

A. There are various advantages and disadvantages of incorporating a business, and taking everything into account, you may come to the conclusion that it would be best to carry on your business as a sole trader in the early years. This situation may be particularly relevant if you envisage making losses in the early years of trading, because you can carry back losses made in the first four years against personal income of the three preceding years, often resulting in a substantial refund of tax becoming due. Loss relief for limited companies will generally be more restrictive in the early years of trading. However, don't miss out on the opportunity of forming a limited company later on when the benefits of company status may be more valuable.



**Q. I would like to give my daughter a gift of £5,000 cash. What are the inheritance tax implications of this gift?**

A. The inheritance tax (IHT) annual exemption enables a person to give away up to £3,000 per annum free of IHT. In addition, any unused exemptions from the previous year, may be carried forward, although any unused exemptions earlier than a year will be lost. This means that if no gifts have been made in the previous tax year, a person could make an IHT-free gift in the current tax year of £6,000. If the amount exceeded the annual exemption available, it could still remain exempt from IHT if the person making the gift survives seven years.

In addition to the annual exemption, small gifts of up to £250 per year may be made free from IHT. The gift must be an outright gift to any one person each tax year.

Gifts on marriage can also be free of IHT provided that the gift does not exceed set limits. The limits depend on the relationship to the married couple/ civil partners and are as follows:

- Parents - £5,000
- Grandparents, great-grandparents - £2,500
- Bride to groom/ groom to bride/ bride to bride/ groom to groom - £2,500
- Anyone else - £1,000

These exemptions may be combined in certain circumstances to reduce a potentially exempt transfer (PET).



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



**May key tax dates**

- 2** - Last day for car change notifications in the quarter to 5 April - Use P46 Car
- 19/22** - PAYE/NIC, student loan and CIS deductions due for month to 5/5/2019
- 31** - Deadline for copies of P60 to be issued to employees for 2018/19

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.

*The information contained in this newsletter is of a general nature and no assurance of accuracy can be given. It is not a substitute for specific professional advice in your own circumstances. No action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a consequence of the material can be accepted by the authors or the firm.*



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