



## LG News

### HMRC publish Agent Update: Brexit Special

HMRC have published a Brexit edition of their Agent Update publication, which contains some useful information on changes to various procedures after Brexit.

In particular, articles are included on the following topics:

Grants for businesses completing customs declarations: £16m in new government funding is now available to help businesses train staff in making customs declarations, and to help businesses who support others who trade goods to invest in IT. This will ensure that trade with the EU continues as smoothly as possible after Brexit on 31 October.

Customs agents currently help businesses who trade outside the EU. This funding should help increase the capacity of the sector as businesses trading with the EU consider whether to get an expert to complete customs documentation for them after Brexit.

Changes for UK employers sending workers to the EU, the EEA or Switzerland: Currently the EU Social Security Coordination Regulations ensure employers and their workers only need to pay social security contributions (such as National Insurance contributions in the UK) in one country at a time. However if the UK leaves the EU without an agreement, the coordination between the UK and the EU will end. This will mean that employees working in the EU, the EEA or Switzerland may need to make social security contributions in both the UK and the country in which they are working at the same time.

VAT IT system changes for businesses outside the UK: Businesses need to prepare for various changes to VAT in the event of a no-deal Brexit. HMRC have flagged up new procedures for checking VAT numbers and paying VAT on sales of digital services provided to UK consumers.

The Service section of the Special Edition carries information on Brexit webinars and the HMRC alert service.

### Delay in implementation of domestic reverse charge VAT for construction services

HMRC have published Brief 10 (2019), which explains that the introduction of the domestic reverse charge for construction services will be delayed for a period of 12 months until 1 October 2020.

A domestic reverse charge is an anti-fraud provision, which means that the UK customer who receives supplies of construction services must account for the VAT due on these supplies on their VAT return, rather than the UK supplier.

To allow for potential cash-flow and administrative impacts the change could have on businesses, there has been a long lead-in time ahead of the measure coming into force. The change was due to take effect from 1 October 2019. However, industry representatives raised concerns that some businesses in the construction sector would not be ready to implement the change from that date.

To help these businesses and give them more time to prepare, the introduction of the reverse charge has been delayed for a period of 12



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months until 1 October 2020. This will also avoid the changes coinciding with Brexit.

In the intervening year, HMRC will focus additional resource on identifying and tackling existing perpetrators of the fraud. They will also work closely with the sector to raise awareness and provide additional guidance and support to make sure all businesses will be ready for the new implementation date.

HMRC recognise that some businesses will have already changed their invoices to meet the needs of the reverse charge and cannot easily change them back in time. Where genuine errors have occurred, HMRC will take into account the fact that the implementation date has changed.

Some businesses may have opted for monthly VAT returns ahead of the 1 October 2019 implementation date which they can reverse by using the appropriate stagger option on the HMRC website.

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### HMRC win IR35 case

Following a series of defeats, HMRC have won a First Tier Tribunal (FTT) case concerning the employment status of three BBC presenters who used personal service companies (PSCs).

The case concerned the working arrangements for presenters Joanna Gosling, David Eades and Tim Willcox. Unusually, the judges disagreed about the IR35 status of the presenters, although they were unanimous that the 'imbalance of bargaining power' between the presenters and the BBC was a significant factor in the case, saying "The BBC were in a unique position and used it to force the presenters into contracting through personal service companies and to accept reductions in pay".

The Tribunal heard evidence that each was required to operate a PSC to receive their payments from 2003 and 2004 until 2014. HMRC had issued the three with tax demands amounting to £920,000, of which around £600,000 has been paid. The tax authority was seeking £300,000, which was understood to consist largely of employers' national insurance payments.

The judgment - a split decision resolved on a casting vote - said that the taxpayers had fallen foul of IR35 legislation which says that individuals who are employees in all but name should be liable for more tax.

However, this decision runs counter to other recent IR35 rulings involving payment arrangements for TV and radio personalities, as another FTT decided earlier this year that Lorraine Kelly was not liable to pay a £1.2m tax claim arising from her work via a PSC for ITV.

The BBC said: 'Recent hearings involving presenters from across the media industry have produced a range of outcomes and this split judgment further demonstrates the confusion of the tax system for those working in broadcasting.'

Around 100 other BBC presenters are thought to have provided their services via a PSC, suggesting that there could be further tribunal hearings in the pipeline.

Andy Chamberlain, deputy director of policy at the Association of Independent Professionals and the Self-Employed (IPSE) said: 'That this case has taken eight years and ended up with an uncertain split decision shows how confusing and unfit for purpose IR35 is.'

'We will look at the judgement in detail but the uncertainty in the decision is likely to add to the chaos around this legislation. Recently, HMRC has lost the majority of these cases. There is little evidence that they or other experienced tax specialists are confident in how it works.'

'We remain at a loss how the Treasury expects medium-sized businesses to accurately apply IR35 to their contractors from next year when HMRC and tax judges struggle.'



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## Tax-free expenses for home-workers

Providing certain conditions are met, no tax liability will arise if an employer makes payments to employees for reasonable additional household expenses, which the employee incurs in carrying out duties of their employment at home under 'homeworking arrangements'.

'Homeworking arrangements' are arrangements between the employee and the employer under which the employee regularly performs some or all of the duties of the employment at home. There is no requirement for any part of the employee's home to be used exclusively for the purposes of the employment.

HMRC will accept that homeworking arrangements exist where:

- there are arrangements between the employer and the employee; and
- the employee works at home regularly under those arrangements.

The 'regularly' condition will be met if working at home is frequent or follows a pattern. The fact that the days spent at home vary from week to week is not a bar to claiming the exemption.

The HMRC guidance also advises that:

'the arrangements need not be in writing but usually will be. They do not need to apply to all employees. The exemption does not apply where an employee works at home informally and not by arrangement with the employer. For example, it will not apply where an employee simply takes work home in the evenings.'

'Household expenses' are defined as expenses connected with the day-to-day running of the employee's home. Typically this will include the additional costs of utility bills, but there might also be increased charges for internet access, home contents insurance or business telephone calls.

To minimise the need for record-keeping, employers can currently pay up to £4 per week (£18 per month/£208 per year) without supporting evidence of the costs the employee has incurred. If an employer pays more than that amount, the exemption will still be available but the employer must provide supporting evidence that the payment is wholly in respect of additional household expenses incurred by the employee in carrying out his duties at home.

Further information on homeworking expenses and benefits can be found on the Gov.uk website.



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## October questions and answers

**Q. Our house has always been owned jointly by myself, my mother and my sister. My sister and I now want to buy our own homes and want to make mum the sole owner of our current home. If we put the house in her sole name will she have to pay capital gains tax (CGT) on it?**

A. Transferring the house into your mother's sole name will not trigger a liability to CGT, but it may have CGT implication for you and your sister. However, since you live in the property, it is quite likely that you would qualify for principal private residence (PPR) relief and no CGT charge would arise.

**Q. I have recently started a new job and have been provided with a company car. I pay for fuel for private use but I can claim mileage for business journeys. Will I have to pay tax on fuel payments?**

A. In addition to the company car benefit charge, employees have to pay tax on any fuel their employer provides that is used for private mileage. For 2019-20 this is calculated by multiplying the car's CO2 percentage by £24,100. So, if the percentage is 30, the tax charge for petrol is £7,230. For a basic rate taxpayer, the after-tax cash equivalent is £1,446 and for a higher rate taxpayer £2,892. The charge is the same regardless of whether you use 2 litres or 2,000 litres of fuel.

However, this tax charge can be avoided if you pay all the private fuel costs back to your employer. You need to keep accurate records (mileage logs and fuel receipts) to support such a claim to HMRC.



Your employer can give you a tax-free fuel allowance if you pay for fuel used for business travel in your company car. HMRC publish new advisory fuel rates four times a year. The most recent rates, apply from 1 September 2019.

HMRC accept that, where an employer reimburses an employee for the cost of fuel for business mileage in a company car at the above rates, no taxable benefit arises.

**Q. I have just started my first job working for a building contractor. My boss says I need to register for tax as a Construction Industry subcontractor. How do I do this?**

A. You need to register with HMRC for both self-assessment as self-employed, and under the construction industry scheme (CIS). Effectively these are separate registrations, but they can both be done at the same time.

In most cases you can register as self-employed by calling the HMRC Newly Self-employed Helpline on 0300 200 3504. If you are already registered as self-employed, but need to register under the CIS scheme, you should contact the CIS Helpline on 0300 200 3210.

The contractor for whom you are working will ask you for your unique tax reference (UTR) and you need to provide this before you are first paid, in order to determine which tax deduction rate to use.

Under CIS, a contractor must deduct 20% from your payments and pass it to HMRC. These deductions count as advance payments towards your tax and National Insurance bill. If you do not register for the scheme, contractors must deduct 30% from your payments instead.

The UTR is issued when you are first set up under self-assessment to complete a tax return. If you have not previously been required to prepare a tax return, you will be given a UTR when you register as self-employed.

For further guidance on registration and other obligations for subcontractors, see the Gov.uk website at <https://www.gov.uk/what-you-must-do-as-a-cis-subcontractor>.



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### October key tax dates

- 1** - Due date for payment of Corporation Tax for the year ended 31 December 2018
- 5** - If a Tax Return has not been received, individuals and trustees must notify HMRC of new sources of income and chargeability in 2018/19
- 14** - Return and payment of CT61 tax due for quarter to 30 September 2019
- 19** - Tax and Class 1B national insurance due on PAYE settlements for 2018/19
- 19/22** - PAYE/NIC, student loan and CIS deductions due for month to 5/10/2019 or quarter 2 of 2019/20 for small employers

*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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