

# Tax E-News

Welcome to our monthly newswire. We hope you find this newsletter useful.  
Please contact us if you would like to discuss any matters further.

August 2019

## OFF-PAYROLL WORKING RULES GOING AHEAD

The draft Finance Bill clauses issued for consultation on 11 July include legislation to extend the “off-payroll” working rules to the private sector from 6 April 2020. These changes will have significant implications for workers providing their services through personal service companies and also the end user organisations that engage such workers.

End users will be required to determine whether the worker would have been an employee if directly engaged and hence the new rules apply to the services provided by the worker via his or her personal service company. This will be a significant additional administrative burden on the large and medium-sized businesses who will be required to operate the new rules. The current CEST (Check Employment Status for Tax) online tool would be improved before the proposed start date.

### “SMALL” EMPLOYERS EXCEPTED

“Small” businesses will be outside of the new obligations and services supplied to such organisations will continue to be dealt with under the current IR35 rules, with the worker and his or her personal service company effectively self-assessing whether the rules apply to that particular engagement.

The draft Finance Bill confirms that the definition of “small” is linked to the Companies Act 2006 definition.

This is where the business satisfies two or more of the following conditions:

- Annual turnover of £10.2 million or less
- Balance Sheet total of £5.1 million or less
- 50 employees or less

There will be an obligation to pass details of the status determination down the labour supply chain. The liability for tax and national insurance will be the responsibility of the entity, paying the personal service company. However, if HMRC are unable to collect the tax from that entity, the liability will pass up the labour supply chain, thus encouraging those entities further up the supply chain to carry out due diligence.

Please contact us if you would like to discuss how the proposed changes are likely to impact on your business.

## CGT PRIVATE RESIDENCE RELIEF CHANGES



Draft legislation to be included in the next Finance Bill will make important changes to the calculation of CGT private residence relief. As announced in the Autumn 2018 Budget, there will be a reduction in the final period exemption to just 9 months

and stricter conditions for letting relief to apply.

Currently where a property has been the taxpayer’s main residence, the last 18 months of ownership counts as a period of deemed occupation. This will be reduced to just 9 months for disposals on or after 6 April 2020. It is understood that this is being introduced to counteract “second home flipping” allegedly used by MPs when they sell their London residences.

## CGT LETTING RELIEF RESTRICTION

Currently letting relief provides up to a £40,000 deduction in computing the capital gain on the disposal of a property that was at some time the taxpayer’s main residence. The relief is the lesser of £40,000, the gain attributable to the let period, and the amount of private residence relief. For a couple this could potentially exempt up to £80,000 of the gain from CGT.

The draft legislation will limit letting relief to those situations where the owner remains in shared occupancy with the tenant, i.e. has lodgers living in the house.

If you were hoping to take advantage of letting relief on the sale of a property, you might want to consider disposing of the property before 6 April 2020 to take advantage of the current rules. Contact us for advice in this area as we can estimate the additional tax that might be due following the withdrawal of this generous relief.

## INHERITANCE TAX TO BE SIMPLIFIED

The Office of Tax Simplification (OTS) have undertaken a detailed review of Inheritance Tax (IHT), which is perceived by many as a complicated tax. The government normally takes account of OTS recommendations and their report is likely to lead to future changes to the rules. We will keep you posted as the changes may necessitate amending your will or further planning to pass on your wealth.

There are also numerous misconceptions about how the tax operates, particularly in connection with gifts during someone's lifetime. One of the proposed changes is to shorten the period for lifetime gifts to be exempt from 7 to 5 years. The OTS also recommended replacing the current £3,000 annual allowance, marriage allowances and the exemption for regular gifts out of income with a £25,000 personal allowance each year.

## NO TAX FREE CGT UPLIFT ON DEATH

Although the OTS were tasked with simplifying inheritance tax, they also considered the interaction with CGT as many asset transfers potentially have both CGT and IHT implications. Currently there is no CGT on assets transferred on death and the recipient inherits the asset at its market value.

It has been suggested that the capital gains tax uplift on death distorts decision making relating to assets that benefit from an exemption from Inheritance Tax. Where an individual holds such an asset that has risen in value, and is considering transferring it during their life, they are often advised to retain it until death rather than giving it away during lifetime, because of the tax benefits.

Where a business is retained until death, any potential capital gains are wiped out and there is no Inheritance Tax to pay. This could lead to an asset being retained rather than being transferred to the next generation at the time that is right for the business.

We will again monitor the progress of this proposed change as it is likely to have significant implications on family business succession planning.

## IHT RELIEF FOR BUSINESSES AND FARMS

There is currently a very generous 100% relief from inheritance tax for passing on businesses and farm land during lifetime and on death. The rationale for Business Property Relief (BPR) and Agricultural Property Relief (APR) is to enable businesses to be passed on without the need to sell off assets to pay the IHT due on the transfer.

Currently if a business is wholly or mainly for the purpose of investment, then it will not be eligible for BPR. This is not always straightforward to determine. Many estates include both trading and non-trading business assets, and establishing whether this test is met can be difficult to establish. The 'wholly or mainly' test is generally considered to be a greater than 50% test and the OTS are suggesting that the test should be aligned with the much stricter 80:20 test that applies for CGT gift of business asset holdover and entrepreneurs' relief. If introduced many more business transfers would be liable to IHT.

On the positive side the OTS have recommended that IHT business property relief should be extended to include Furnished Holiday Lettings aligning the tax treatment with that of Income Tax and CGT where they are treated as "trading"

providing that certain conditions are met.

## COMPANY VAT PENALTY CAN BE A LIABILITY OF AN "OFFICER"

A recent case before the tax tribunal saw the liability for a late VAT registration penalty being passed on to a manager of the company. HMRC have the power to impose such a penalty on an individual where (1) there is a penalty payable by the company for a deliberate failure (2) the individual on whom HMRC seek to impose liability is an "officer" of the company; and (3) the deliberate failure is attributable to that officer.

## DIARY OF MAIN TAX EVENTS

### AUGUST / SEPTEMBER 2019

| Date  | What's Due   |
|-------|--|
| 01/08 | Corporation tax for year to 31/10/18 (unless pay quarterly)  |
| 19/08 | PAYE & NIC deductions, and CIS return and tax, for month to 05/08/19 (due 22/08 if you pay electronically) |
| 01/09 | Corporation tax for year to 30/11/18 (unless pay quarterly)  |
| 19/09 | PAYE & NIC deductions, and CIS return and tax, for month to 05/09/19 (due 22/09 if you pay electronically) |