Tax Briefing

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Dividend tax

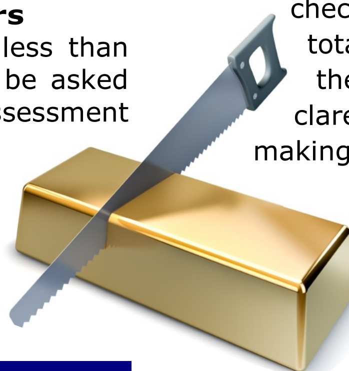
The new dividend tax will increase the tax you pay on dividends by 7.5%, although the first £5,000 of dividends will be taxed at 0%. This change will affect different shareholders in the following ways.

Company owners
As a company owner you may want to bring forward a dividend payment to before 6 April 2016 to save the additional 7.5% tax you would pay on the same income in 2016-17. However, if your total income is hovering around a tax rate threshold, the actual level of tax of tax saving will vary.

The company must also have the distributable profits available to pay the accelerated dividend. You could perhaps demonstrate that there are adequate profits to pay a dividend by drawing up management accounts for the company.

Your PAYE code for 2016-17 may include an estimated amount of tax in respect of the 7.5% dividend tax. You may want to check whether the level of estimated dividend tax is reasonable and in line with the dividends you expect to receive in 2016-17. You can ask for the deduction for dividend tax to be taken out of your PAYE code, so that you pay any additional tax due for 2016-17 on 31 January 2018.

Basic rate taxpayers
When your income is less than £43,000 you may not be asked to complete a self assessment tax return, as you have no additional tax to pay on dividends. If you receive dividends of more than £5,000 in 2016-17 there will be tax to pay, so you may have to register for self assessment. Alternatively the extra tax due may be collected through your PAYE code, but it's essential to check that the code is correct.



Generous donors
The dividend tax credit is counted as part of the tax paid in respect of donations made under Gift Aid. From 6 April 2016 that dividend tax credit is abolished. All bank interest will also be paid without deduction of tax from that date. You should check whether your total tax bill covers the tax you have declared you pay when making Gift Aid donations; we can help you with that.

Planning remuneration

The changes to personal tax, national insurance (NIC) and pension contribution in 2016-17 mean that you should review your remuneration strategy before the new tax year begins.

Salary
Paying a salary just below the NIC primary threshold of £8,060 will preserve your entitlement to the state pension, and incur no employee or employer's NIC. Any payment above the secondary threshold (£8,112) will incur employer's NIC. In the past, the employer's NIC would have been covered by the employment allow-

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ance of £2,000. This allowance is increasing to £3,000 for 2016-17, but only where the company has two or more employees, including the directors.

Dividends

Any dividends you receive in excess of £5,000 will create a tax charge for you (see *Dividend Tax* on Page 1). As the 10% dividend tax credit is abolished, you will be able to receive more cash as a dividend before tipping into the higher rate of tax (32.5% on dividends).

Act now, before the changes on 6 April take effect

Rent

Where your company trades from premises that you own personally, paying rent instead of dividend should be considered. Rent is taxed at 20%, 40% and 45%, but there is no NIC and the company can set the rent paid against its profits. However, on a future sale of the premises entrepreneurs' relief on the gain could be restricted.

Pensions

Once you are aged 55 or over you have complete flexibility over how and when to withdraw cash from your pension fund (subject to charges). This makes employer pension contributions a very attractive option. The contribution is tax deductible for the company and attracts no tax or NIC for you, as long as your pension annual allowance is not exceeded. This favourable treatment of pension contributions may not last.

The ideal combination of these factors will vary for each person. Talk to us about the implications for you and your company of each type of payment.

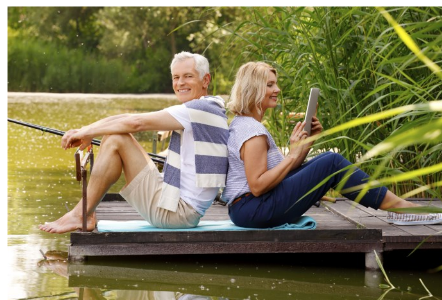
Restrictions on pension contributions

Your pension annual allowance (AA) is the maximum amount you and/or your employer can contribute to your pension fund in one tax year, without incurring tax charges.

From 6 April 2016 the standard AA will be cut from £40,000 to a minimum of £10,000 for 'top earners'. Individuals affected will have their AA reduced by £1 for every £2 of their adjusted income over £150,000, until a minimum AA of £10,000 is achieved. However, any pension contributions made by the individual's employer are counted as part of adjusted income, so people on salaries of less than £150,000 could be caught.

To avoid an unwelcome tax charge on pension contributions you need to estimate your annual adjusted income before making large pension contributions within that same tax year. However, that will be difficult for anyone with a variable annual income, such as business profits or dividends.

As a high earning employee you should talk to your employer about the level of pension contributions due to be made by you and the employer in the year, to check that the total does not exceed your pension AA. You may need to opt out of the company pension scheme and negotiate compensation for that opt-out.



You may also consider transferring income-generating assets such as property or shares to a lower-earning spouse or civil partner before 6 April 2016. A transfer to an unmarried partner will trigger a disposal subject to capital gains tax.

A third option is to maximise your pension contributions in 2015-16 by making use of any unused pension AA brought forward from the previous three tax years.

Close that company

The dividend tax has been the last straw for many small company owners. This extra tax burden on top of the hassle of RTI and auto-enrolment makes operating the business through a company not worth the candle.

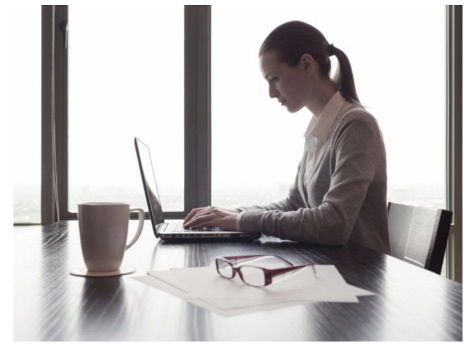
If this is your feeling, we should talk about your options for trading without a company – as a sole-trader or partnership. To extract any remaining funds from your company you will need to pay a dividend or to liquidate the company so that the distribution is treated as a capital gain.

The dividend will be taxed at 0%, 25% or 32.5% in your hands if it is paid before 6 April 2016. The dividend tax will add 7.5% to those figures for amounts paid after 5 April 2016. Where the distribution is treated as a capital gain, you will pay capital gains tax (CGT) at 10% if entrepreneurs' relief applies; otherwise CGT is due at 18% or 28%.

However, these low rates of CGT can't be guaranteed to apply to distributions made after 5 April 2016, as the Government is planning to make people pay the dividend tax rates when a business is 'phoenixed'. This means liquidating the company, then starting up the same or similar business within two years, in another company or as an unincorporated business.

These phoenix rules could apply even where the new business is undertaken on a much reduced scale or with new partners who were not involved in your old business. The dividend tax rates will apply to distributions made as part of liquidation if HMRC can show that one of the main aims of the liquidation was to save tax; this will not be difficult to prove.

To take advantage of the low CGT rates, you should consider liquidation before 6 April 2016 and aim to pay out most of the funds before that date. Liquidation is not a simple exercise however, so careful planning will be required.



Tax free meals while travelling

When your employees are working away from their main workplace, or on a business trip, you may reimburse them for the cost of meals they need to buy while they are away. There is no cap on the amount you can reimburse, as long as the employee provides receipts to support the expense.

In practice most employers limit what can be claimed for meals. Since 2009 HMRC has accepted that employers can reimburse meal costs up to certain benchmark amounts such as: £5 for breakfast or £15 for evening meal. Receipts are not required if the cost is within those benchmarked limits.

From 6 April 2016 a new set of maximum rates for meal costs will apply. The new rates vary according to the number of hours the employee is travelling away from the normal work-place: £5 for at least 5 hours, to £25 for 15 or more hours. An additional meal costing up to £10 can be claimed if the employee is still travelling at 8pm.

These meal rates are payable in addition to the cost of travel, which includes travelling to a temporary workplace. But they can't be paid as part of a salary sacrifice scheme.

Trivial benefits

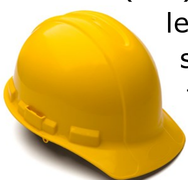
Sometimes words are not enough to express your thanks or congratulations: flowers, wine or chocolates are needed. But where the recipient is your employee, there is a risk that the value of such a gift will be taxed on them as a benefit.

HMRC agree that such trivial benefits should not be taxed, but this is an unofficial rule applied by concession only. From 6 April 2016 the tax laws allow a trivial benefit to be provided free of tax and national insurance if it is worth no more than £50. The items must also not be cash or a voucher that can be converted into cash. More than one gift can be made per employee per tax year, but the gifts must not be a substitute for any part of salary or wages.

To prevent family companies from taking advantage of this tax-free benefit, the directors of those companies won't be able to receive more than £300 of trivial benefits in one tax year. This cap will also apply to each member of the director's family.

CIS returns online

The construction industry scheme (CIS) is a sort of parallel PAYE system for subcontractors in the construction industry. Contractors who pay subcontractors must make monthly CIS returns to HMRC.



From 6 April 2016 all CIS returns must be filed online, and the paper forms will be rejected. According to HMRC, 15% of contractors still use paper and may not be aware that the law is changing.

If you have associates in the construction industry, please tell them about this move to online filing. We can help out firms who can't file online.

Extra tax on your second home

The Government wants to discourage people from buying homes for investment, so it is imposing a supplementary rate of Stamp Duty Land Tax (SDLT) on such purchases. This will also affect landlords who transfer their residential property portfolio to a wholly-owned company.

The 3% SDLT supplement will apply to residential property purchases completed on and after 1 April 2016, and a similar charge will apply in Scotland from the same date. The supplement applies to the entire purchase price where that is £40,000 or more.

The SDLT supplement should not be payable where the new property is a replacement for your main home, but there is a trap to avoid. If your new home is purchased before your old one is disposed of, you may have to find the extra cash to pay the 3% supplement, then reclaim it at a point when you only own one home. The old home must be sold within 18 months of buying the new one. Properties owned in other countries will count for this test.

Your main home is the property you occupy most of the time. This may not be the property which you have nominated to be treated as your main home for CGT purposes. Married couples can only have one main home between them.

A company can't have a main home. Where a company buys even its first residential property it will pay the extra 3% SDLT. However, the supplement may not be due where a landlord makes a bulk acquisition of fifteen or more properties in one transaction. The detailed rules on bulk acquisitions haven't been released yet.

Example

On a first home purchased for £250,000, the SDLT is £2,500 (2% on the excess over £125,000).

On the same property purchased as a second home, this increases to £10,000: the basic charge of £2,500, plus a supplement of £7,500 (3% on the full £250,000).

Withdrawal of wear and tear

As a landlord of furnished residential property you can currently claim a wear and tear allowance, equivalent to 10% of the rents you receive for each property. This annual deduction from your profits applies irrespective of the amount you actually spend on furnishings each year.

From 6 April 2016 (1 April 2016 for corporate landlords), you will only get a deduction for the actual costs of replacing 'domestic items' used in your let properties. The wear and tear allowance is abolished.

Domestic items are: furniture, furnishings, household appliances and kitchenware, but not fixtures. Anything fixed to the property such as a built-in hob is a fixture. Replacing or repairing fixtures should be classified as repairs to the property.

It's the replacement cost of the domestic items you should claim for, when the items are replaced on a like for like basis. You don't claim a deduction when the first set of domestic items is provided in the property. However, any fees you incur when disposing of the old items can be claimed.

From April 2016 it won't matter whether your property is partly furnished or fully furnished; the cost of replacing carpets or curtains can be claimed even if they are the only items you provide in the property. You may want to wait until after 6 April 2016 before replacing any domestic items in your let properties.

Certain properties are outside this domestic items policy; furnished holiday lettings, and rooms let in your own home where rent-a-room relief is claimed. Please ask us about what you can claim as a deduction when letting property.