DNS Accounting Group

TAX TIPS & News

This issue includes updates and news on...

- National Living Wage to rise to £8.91 from April 2021
- SDLT: HMRC clarifies stamp duty rules for mixed-use buildings
- New VAT number-checking service
- Company vehicles: CO_2 emission thresholds cut

Tax Tips and questions

- Tax implications of close company loans
- Transferring rental income to family members
- Tips for filing your Self-Assessment tax return
- IR35 reforms – when your end-client is based abroad

Newsletter January 2021

Welcome to January's edition of the Tax Tips & News bulletin.

I am heartened by the news that the UK has finally achieved what seemed unachievable. Now that the Brexit deal has been secured, we can look forward to rebuilding new trade deals and securing a competitive advantage. There's certain to be something like a race between the EU and the UK to see who can secure the better trade deals over the months and years to come.

Brexit is a prime example of one potential crisis that we've avoided by getting a deal, and I'm sure we will overcome the other: the Covid crisis. It might seem that currently it's impossible to beat this thing down despite the vaccine roll-out having started. Yet, although the number of cases is rising speedily, which I'll admit is somewhat scary, there is a glimmer of good news: the vaccine does seem to immunise effectively and protect those who've had the jab against a fatal overload of the virus. But the bad news is that we must all limit the pressure we put on the NHS over the coming winter months by making it our mission to stay safe indoors as much as possible. We must stick with the rules for just a few months longer until things are more manageable. Things will get better.

Despite the crisis spelt out above, tax and tax deadlines never disappoint; January is always a frantic, exciting time of the year for Accountants! The super-busy Self-Assessment tax deadline period is already underway. This means that we must all make sure we have submitted all data to our accountant to allow enough time for SA tax return completion. Please make sure you collect all of your information together in good time prior to submission. If you leave it to the last minute so that there is no time window available to look into ways to reduce tax, you could miss out. For example, there may be an opportunity to invest in EIS shares and carry back the relief to the previous tax year.

There's plenty to catch up on in this issue of our newsletter, including:

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Finally, please refer to **the Key Dates and Deadlines for January 2021** to be sure that you keep up to date with the filing deadlines for your business.

Wishing you and your family a very happy 2021: Stay Safe. Stay Healthy!

Kind regards,

Sumit Agarwal ACMA, ACA (India)
Founder & Managing Director

National Living Wage to rise to £8.91 from April 2021

Based on the recommendation of the Low Pay Commission, Chancellor Rishi Sunak announced in his Spending Review of November 2020 that the National Living Wage (NLW) is to increase to £8.91 per hour (currently £8.72 an hour) for employees age 23 and over.

As stated in the Spending Review documentation: “This decision balances the ambitions of the government's long-term target for the [NLW] to reach two-thirds of median earnings by 2024 (subject to economic conditions) and helps ensure that the lowest-paid workers continue to see pay rises without significant risks to their employment prospects.”

From April 2021 onwards, therefore, the NLW increases across the board: For workers age 21–22, the NLW will increase from £8.20 to £8.36 per hour; for those age 18–20, it will rise from £6.45 to £6.56 per hour; for 16–17-year-olds, the NLW will increase from £4.55 to £4.62 per hour; and apprentices will see an increase of 3.6% from £4.15 to £4.30 per hour.

SDLT: HMRC clarifies stamp duty rules for mixed-use buildings

Landlords could be due a windfall amounting to tens of thousands of pounds after HM Revenue & Customs clarified the rules regarding stamp duty land tax (SDLT) payments.

Investors buying "mixed-use" buildings that consist of both residential and commercial premises should not be forced to pay the 3% surcharge that is normally applied to purchases of buy-to-let properties and second homes. This means that when claiming the relief on purchases of mixed-use buildings, the tax should be calculated without using the 3% surcharge, even for purchases made by companies.

When the new higher rates were first introduced, HMRC confirmed that where there was a purchase of mixed-use buildings the 3% higher rate of SDLT applied to the dwelling element.

Having updated their guidance on this issue on 13 November 2020, the revised guidance makes clear that that the 3% surcharge will not apply to the dwelling element. However, the guidance adds the caveat that the non-residential element of the transaction must be neither negligible nor artificially contrived.

As many landlords are believed to have paid over the odds in past, they could now be entitled to a refund. The clarified rules should entice landlords to buy mixed-use buildings going forward: these often consist of a retail unit on the ground floor and flats on the level or levels above. Landlords who had overpaid could claim the tax back by contacting the tax authority.

"HMRC has updated its internal guidance manual to ensure that when claiming the relief on the purchase of mixed-use buildings, the tax should be calculated without the surcharge, even for purchases made by companies."

Therefore, taxpayers who have purchased mixed-use buildings in the last four years should review the amount of SDLT they have paid, check if there has been any overpayment, and then submit a claim for a refund with HMRC, where applicable.

New VAT number-checking service

In preparation for the UK leaving the EU VAT regime from 1 January 2021, HMRC has introduced an online VAT number-checker service.

The service provides a real-time check on whether a UK VAT number is valid or not and the name and address of the taxpayer holding the VAT number. It is important that parties verify each other's VAT numbers to unveil any irregularities, especially while dealing with B2B transactions. UK VAT-registered businesses can also make use of this service to prove they have checked a UK VAT number. However, they will need to have their own VAT number to hand to be able to do this.

This service has been launched as the UK leaves the EU VAT Information Exchange System – VIES VAT number validation service. You can find this service here.

Company vehicles: CO2 emission thresholds cut

The government has changed the CO2 emission thresholds that avail drivers of capital allowances; this is in order to encourage the use of electric vehicles. Tweaking the capital allowances rules bolsters the government's plan to end sales of new petrol, diesel and hybrid vehicles by 2035.

From April 2021, the 100% first-year allowance (FYA) will be available only for the purchase of new electric vehicles or those producing zero CO2 emissions. Currently, vehicles with 50g/km, or lower, CO2 emissions are also eligible for 100% first-year allowance (FYA).

The writing down allowance (WDA) at the main rate (18%) will be available only for vehicles with CO2 emissions not exceeding 50g/km, which is currently applicable to vehicles emitting CO2 between 50–110g/km. The writing down allowance (WDA) at the special rate (6%) will apply to vehicles with CO2 emissions exceeding 50g/km (currently 110g/km).

HMRC has also confirmed that the first year allowance (FYA) rules for expenditure on business vehicles, including zero-emission goods vehicles and equipment for gas refuelling stations, are being extended from April 2021 until April 2025.

Tax implications of close company loans

Broadly speaking, a company is called a “close company” if it is privately owned and controlled by five or fewer individual participators. Most small companies are close companies and, broadly speaking, a participator is someone who features a financial interest within the company in terms of voting power, share capital in the company and rights to the capital on winding up. This would apply, for example, to someone who is a shareholder, a director or a loan creditor.

A few rules for tax purposes apply when a close company makes the loan.

The rules apply for:

- loans to participators who are individuals or trustees, but not companies;
- loans to associates (e.g. relatives or partners) of participators; and
- loans to partnerships, including limited partnerships and limited liability partnerships, in which a participator or their associate is a partner. However, HMRC acknowledges that loans to Scottish partnerships (but not Scottish LLPs) do not fall within its scope.
- The rules also can apply where a company provides a loan to its employee benefit trust.

Tax rules stipulate that the close company must:

- Pay HMRC tax equivalent to 25% of a loan made before 6 April 2016 or 32.5% of a loan made on or after 6 April 2016, unless the loan is repaid within nine months and one day from the end of the accounting period during which the loan is made; and
- Claim to recover this tax from HMRC when the loan is repaid or written off by the company.
- Moreover, HMRC considers a director's loan to be a benefit in kind if:
    - It is a loan of £10,000 or more;
    - The director is not paying any interest on the loan;
    - The interest charged on the loan is below HMRC's average beneficial loan rates.

If the loan meets these criteria and qualifies as a benefit in kind, it must be included in the company's P11D. The loan's cash-equivalent value must be recorded on the personal self-assessment tax return of the beneficiary.

For more information, please visit our blog: complete-guide-to-directors-loan-account and S455 Tax.

Transferring rental income to family members

Some individuals who own investments (e.g. buy-to-let properties) might want to transfer rental income to somebody else while retaining ownership of the property.

Attempting to transfer only the income, such that the original owner retains the beneficial ownership of the property, is likely to fall foul of specific anti-avoidance tax legislation, which will make the income donor liable as if the transfer had never taken place. This complex legislation is primarily aimed at businesses that try to convert income into capital (in order to benefit from the lower rates of tax).

However, it can potentially cover the re-allocation of income between two individuals under the Income Tax Act 2007, but these provisions apply only where a capital interest in the underlying income-generating interest isn't also transferred.

Of course, transferring an interest in the underlying asset will usually trigger a capital gains tax (CGT) charge, on the rise in the value of the interest, over and above the corresponding cost. This rule applies even where the property interest is presented or sold at a discount (transfers between spouses and civil partners are generally "CGT-free", but other family members aren't protected in this way).

So, a question arises: Is it possible to transfer only a comparatively small proportion of the capital interest, but comparatively far more of the income?

Spouses and civil partners

Transfer of capital assets between spouses does not involve the CGT charge, but there are some special rules around sharing of income that should be borne in mind.

The default assumption is that if spouses or civil partners share the underlying beneficial interest in the property in any given proportion, then the income will be distributed 50/50 between them (ITA 2007, s 836). And to displace this approach, the spouses must generally either:

- actually own the underlying asset other than in a 50/50 split and make a joint declaration to that effect to HMRC; or
- be operating a partnership: although for a jointly-owned investment property this is considered quite rare at present, there could be increased interest in the distinction in the years to come.

Settlements anti-avoidance legislation

Within the "settlements legislation" are anti-avoidance provisions that attack such arrangements as relevant to this discussion about the transfer of rental income. This would mean that such a transaction could potentially be "caught" by income tax anti-avoidance legislation regarding "transfers of income streams". This legislation applies broadly where a right to "relevant receipts" (which could include rental income) is transferred to a different person without a transfer of the asset (i.e. the property) from which the income arises (ITA 2007, s 809AZA).

If these provisions apply, the person making the transfer is usually chargeable to tax on a "relevant amount" in the same way, and to an equivalent extent, because the relevant receipts would have been chargeable but for the transfer of the rights to the income stream.

However, it should be noted that the settlements legislation does not apply only to relationships between spouses and civil partners, and between parents and their minor children; in theory, it can apply wherever the original settlor gives away a right to income, but still stands to profit from the income given away.

Nevertheless, it is often possible to rearrange a tax-efficient distribution of income without necessarily having to precipitate a big CGT charge in the process. However, it is always recommended that professional advice be sought beforehand to make sure that each one of the taxes that could apply (e.g. inheritance tax) are properly considered and catered for in the planning.

Tips for filing your Self-Assessment tax return

It is less than a month before the SA tax return deadline – miss it, and you'll face a minimum of a £100 fine. Here's a strategy to make the process of filling your SA tax return form easier.

1. Apply for an online account

As the deadline for filling a paper income tax return has already passed (31 October 2020), you'll need to fill out an online SA tax return whether you like it not! To do this, you'll need to get a log-in for the HMRC website <www.gov.uk>. If you've done this before, you'll already be registered; but, if you haven't registered yet, you must do so right away, as it can take up to 10 working days to receive your activation code in the post and you cannot file your tax return without it.

2. Gather together your paperwork

Before trying to fill out your SA tax return, first ensure you've got all the paperwork you will need at hand. The paperwork you will need includes a P60 from your employer showing your income and the tax you have paid in the relevant tax year; a P45 if you have left employment within the tax year; a P11D or P9D, which includes benefits and expenses; plus details of any interest you have earned on bank or building society accounts, dividends from investments and any other income you have received throughout the tax year.

3. Use an accountant (never be afraid to seek help)

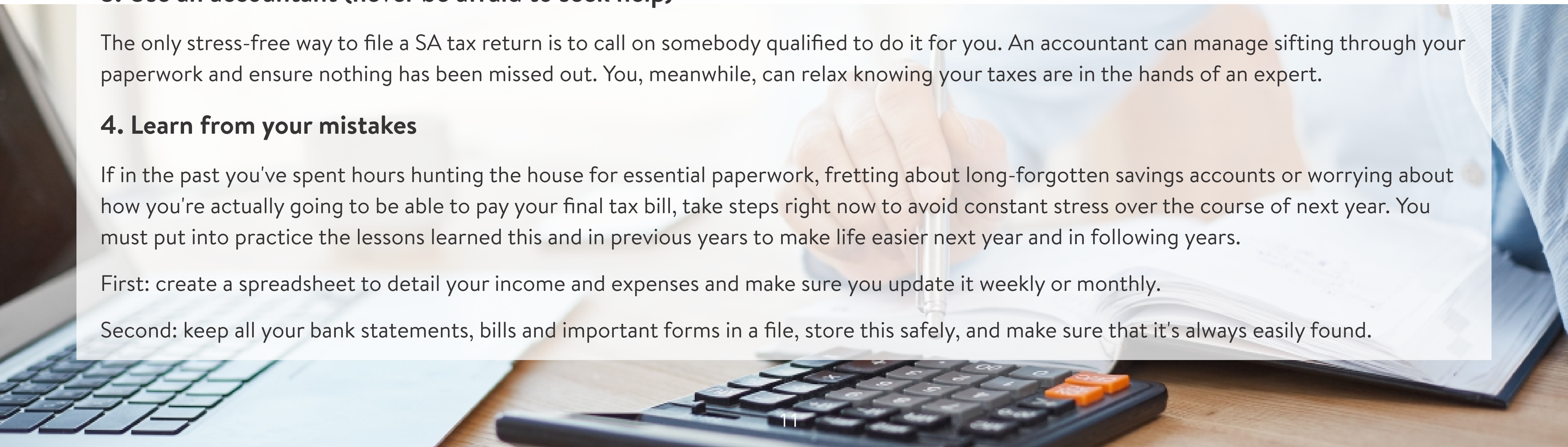
The only stress-free way to file a SA tax return is to call on somebody qualified to do it for you. An accountant can manage sifting through your paperwork and ensure nothing has been missed out. You, meanwhile, can relax knowing your taxes are in the hands of an expert.

4. Learn from your mistakes

If in the past you've spent hours hunting the house for essential paperwork, fretting about long-forgotten savings accounts or worrying about how you're actually going to be able to pay your final tax bill, take steps right now to avoid constant stress over the course of next year. You must put into practice the lessons learned this and in previous years to make life easier next year and in following years.

First: create a spreadsheet to detail your income and expenses and make sure you update it weekly or monthly.

Second: keep all your bank statements, bills and important forms in a file, store this safely, and make sure that it's always easily found.



Third: open a separate bank account to hold the money for your taxes and frequently deposit a percentage of your income into it so that there is always enough money to pay your tax bill when it becomes due.

5. Doing the deed

Many of the questions on the SA tax return are similar. The first time is probably the only time you will have to read it closely before you start filling in the details ready to submit the return online.

You'll quickly learn exactly what information goes in each section and might complete the task more quickly in the subsequent times you carry out the task. When working online, tax calculators will compute how much you owe. The amount will depend on which tax band you're in. Sometimes the tax is deducted automatically from wages and pensions.

6. Don't ignore the 2020 self-assessment tax return deadlines

Nothing is worse than trying to file a tax return while under time pressure. The deadline for paper returns was 31 October 2020. Online tax returns need to be completed by midnight on 31 January 2021, and any tax you owe must be paid at the same time for the previous tax year ending 5 April. To be certain that you'll avoid HMRC's punitive late-filing penalties you must submit your SA tax return well within the deadline of midnight on 31 January 2021.

If you would like assistance or believe you don't need to file the tax return, please visit our blog Do I need to complete a Self-Assessment Tax Return?

IR35 reforms – when your end-client is based abroad

The government announced in March 2020 that the proposed off-payroll reforms commencing 6 April 2020 would be delayed by 12 months as a part of their Covid-19 response package.

The proposed changes, which shift responsibility for determining the IR35 status of a Personal Service Company (PSC) from the PSC to the end-client, have been in force within the public sector since April 2017. However, the latest reforms will affect the private sector from 6 April 2021.

The reforms posed many questions from contractors, one of which was whether the April 2021 reforms will affect workers with overseas end-clients. In one of the consultation documents issued in March 2019, the issue was stated as follows:

> *"Where the fee-payer party is offshore, the liability shifts to the subsequent person above them within the contractual chain which is in the UK. If only the client is in the UK then they're going to be the liable party. Where a party, including the client, is outside the UK but the off-payroll worker performs services in the UK, fee-payers must still deduct tax and NICs."*

Many end-clients based abroad are not even aware of the UK's IR35 legislation, and contractors are therefore quite worried about how they're going to obtain a status determination statement (SDS) from an overseas end-client, and not least what impact this could have on their business. It has also raised the question as to how HMRC intend to enforce compliance from overseas end-clients and fee payers.

The government has taken note of these concerns, and clarified the issues in response within the 2020 Finance Bill that further explains the legal position regarding overseas clients. The guidance (last updated in March 2020) states that where a client is based wholly overseas the off-payroll working rules will not apply. Instead, the PSC alone will be accountable for determining if the rules apply. For a client to be considered "wholly overseas", they must not have a UK connection immediately before the start of the tax year. The client will have a UK connection if either it is:

- A resident in the UK; or
- Has a permanent establishment in the UK.

If the client is based overseas but nonetheless has a UK connection through a permanent establishment like a branch or office, the overseas client will be responsible for determining the IR35 status of the PSC and for executing its responsibilities, such as issuing an SDS. As to the repercussions of being unable to meet its responsibilities, the overseas client will be liable for tax and NICs where the rules apply. HMRC will pursue this debt through the UK permanent establishment.

Remember, it is still important for you to update yourself on your personal IR35 status until the new reforms come into play in April 2021. By far the simplest and most reliable way to do this is to carry out an IR35 review. However, with the new reforms taking effect in the next couple of months, please ensure you understand the set-up of any end-clients or fee payers based abroad, and seek professional advice if you are unsure.

Key dates and deadlines for January 2021

1st January 2021

- For companies not liable to pay their liability by instalments, corporation tax payment due for year-end 31st March 2020.

7th January 2021

- Due date for VAT returns and payments for quarter ending 30th November 2020.

14th January 2021

- EC sales list (paper): paper deadline to report the value of goods and services supplied to VAT-registered businesses in EU member states.

19th January 2021

- Employers' quarterly PAYE (cheque): Monthly deadline for postal payments of PAYE, Class 1 NICs and student loan deductions from Q3 2020/21.
- Employers' monthly PAYE (cheque): Monthly deadline for postal payments of PAYE, Class 1 NICs and student loan deductions from December 2020.
- CIS return (paper): Monthly CIS deadline for postal returns following the last tax month.

21st January 2021

- EC sales list (online): Deadline to report the value of goods and services supplied to VAT-registered businesses in EU member states.
- Intrastat: The due date for payment of supplementary declarations for December 2020.

22nd January 2021

- Employers' monthly PAYE (online): Monthly deadline for electronic payments of PAYE, Class 1 NICs and student loan deductions from December 2020.
- Employers' quarterly PAYE (online): Quarterly deadline for electronic payments of PAYE, Class 1 NICs and student loan deductions from Q3 2020/21.
- CIS return (online): Monthly CIS deadline for online returns following the last month.

31st January 2021

- Balancing payment: Midnight deadline to pay any outstanding tax owed from 2018/19.
- The first payment on account: Midnight deadline to pay 50% of any tax owed for 2019/20. Because of COVID-19, it is possible to defer this until 31st January 2022.
- Corporation tax return: The filing deadline for corporation tax return self-assessment form CT600 for the period ended 31st January 2020.
- Company accounts filing deadline for the period ended 30th April 2020.
- Personal (SA) tax returns (online): Midnight deadline to submit online SA tax returns for 2019/20.

Awards & Accreditations

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British Accountancy Awards
2018 WINNER

British Accountancy Awards
2017 WINNER

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Get in Touch

DNS ACCOUNTANTS

03300 886 686
info@dnsaccountants.co.uk
www.dnsaccountants.co.uk
DNS House, 382 Kenton Road, Harrow, Middlesex, HA3 8DP