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Newsletter

Inside this issue

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Probate issues

A substantial increase in probate fees was planned for April 2019, but is still making its way through parliament, due to pressure of other business. The media has been quick to call this a new 'death' tax. Strictly speaking, however, this is an 'enhanced fee', rather than a tax. It would apply in England and Wales, not Scotland and Northern Ireland, which have their own procedures.

The change would replace the long-standing flat rate scheme, with its fixed fee of £155 for a solicitor's application, or £215 for a personal application. The new rules would set fees depending on the size of the estate (before inheritance tax), with no discount for applications via a solicitor. Whilst estates worth less than £50,000 would be exempt, the change would have particular impact on higher value estates.

Value of estate before inheritance tax	Fee
Up to £50,000	Nil
£50,000 to £300,000	£250
£300,000-£500,000	£750
£500,000 - £1 million	£2,500
£1 million - £1.6 million	£4,000
£1.6 million - £2 million	£5,000
Over £2 million	£6,000

While the changes are pending, there is a temporary process in place for applying for probate, and estates will not incur the higher fees if applications are lodged before the fee changes take effect. Probate registries will thus, exceptionally, accept applications for probate before HMRC has processed the necessary inheritance tax account. Applications should contain a note to say that appropriate inheritance tax forms will be submitted 'shortly'.

AUTO-ENROLMENT PENSION RULES

The Pensions Act 2008 brought the requirement for employers to enrol particular qualifying employees in a workplace pension scheme, and to make scheme contributions. This auto-enrolment regime provides for an increase in minimum contributions on set dates - sometimes called phasing.

New contributions

The auto-enrolment calendar has been aiming to get to minimum contribution levels of 8% by 2019, and 6 April 2019 was the date for the final phased increase. Employers have the responsibility of ensuring these increases are put into effect.

They apply to any employer with staff in a pension scheme for automatic enrolment, whether they set up a pension scheme for auto-enrolment or use an existing scheme. Where employers already pay more than the increased minimums, no further action is necessary, and where employers use a defined benefits pension scheme, the increases do not apply.

From 6 April, the total minimum contribution became 8%, with the employer minimum contribution being 3%. Employers can choose to pay more than the employer minimum, with the staff member making up any shortfall. Contributions for this type of scheme are calculated based on a specific range of earnings and include salary, wages, commission, bonuses, overtime, statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay and statutory adoption pay.

A minority of employers use pension schemes which base minimum contributions on different elements of staff pay: they need to apply different minimum auto-enrolment contribution increases.

Help at hand

Earlier this year, the financial press reported the fact that the number of fines for auto-enrolment errors seemed to have risen markedly as businesses with fewer than 50 employees came within scope of the rules for the first time. This carried the suggestion that smaller employers, lacking specialised payroll resources, could be more at risk. The Pensions Regulator offers a wealth of useful guidance **bit.ly/2FrMS1q** and we should be delighted to do all we can to help with the auto-enrolment rules. Please do not hesitate to contact us for further advice.

Don’t lose out when disposing of your business

Entrepreneurs’ Relief (ER) is a valuable tax relief for those disposing of a business. It can give access to a 10% rate of capital gains tax, subject to a £10 million lifetime limit. ER is potentially available to company shareholders, owners of unincorporated businesses and trustees. But for a claim for ER to be successful, close attention to the detail of the rules is critical - and important new conditions have recently been added.

New ownership period

Ownership conditions apply throughout the period up to the date of disposal. Budget 2018 brought change affecting all business owners and shareholders looking to claim ER. For disposals on or after 6 April 2019, the necessary qualifying period of ownership is extended, becoming two years, rather than one. Where the claimant’s business ceased, or their personal company ceased to be a trading company (or holding company of a trading group) before 29 October 2018, the one-year qualifying period still applies.

Company shareholders and trustees

For company shareholders, and trustees who are company shareholders, there are new rules on what constitutes a ‘personal company’. An individual must, throughout the relevant qualifying period:

- be a company employee or office holder
- hold at least 5% of the company’s ordinary share capital and
- be able to exercise at least 5% of the voting rights and
- satisfy either the distribution test, or the proceeds test.

The conditions in the last bullet point are the new conditions added recently.

Note that for trustees who are company shareholders, the qualifying beneficiary of the trust must (had they owned the shares personally) fulfil these criteria, and pass either the distribution or proceeds test.

Distribution test

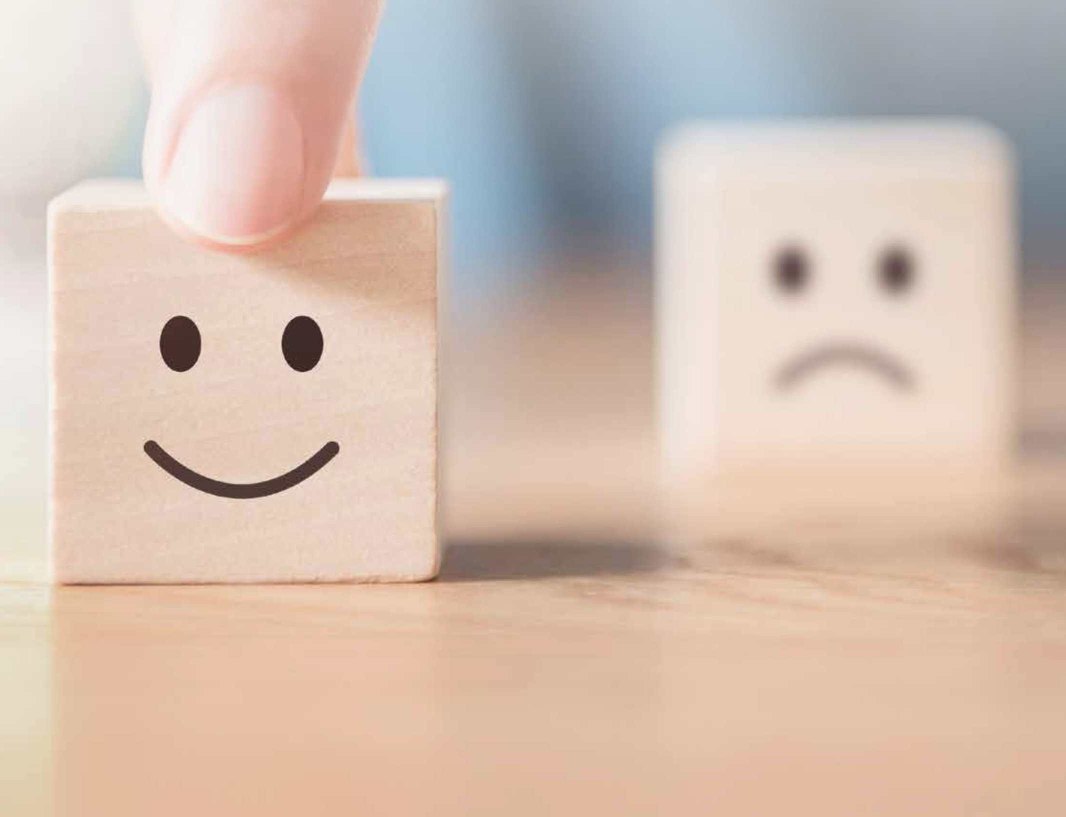
For disposals on or after 29 October 2018, Budget 2018 introduced the requirement that an individual must satisfy the ‘distribution’ test. By virtue of their holding, an individual must be entitled to at least 5% of the company’s profits available for distribution to ‘equity holders’, and 5% of the assets available for distribution to ‘equity holders’ in a winding up. Note that the basis is profits available to equity holders, rather than shareholders: this has wider impact.

Unfortunately, this could impact companies genuinely issuing different classes of shares - sometimes known as ‘alphabet’ shares - to different shareholders. As different classes of shares have different rights, alphabet shareholders may not meet the distribution test. The existence of preference shares could also affect the outcome.

Proceeds test

To address this, the government introduced an alternative test, based on proceeds on disposal.

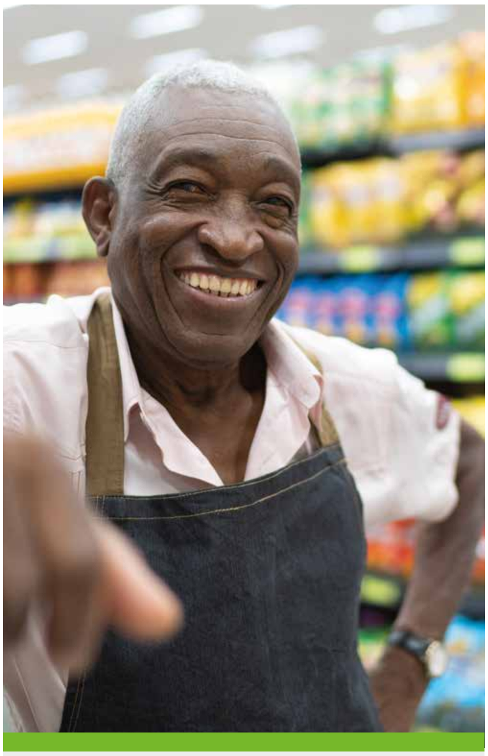
For disposals on or after 29 October 2018, the individual must, in the event of a disposal of the whole of the ordinary share capital of the company, be beneficially entitled to at least 5% of the proceeds. Here the 5% threshold is computed by reference to the market value of the company at the end of the qualifying period, but the test will need to be met throughout the two-year holding period (one year for disposals before 6 April 2019). This could mean – in situations where the new distribution tests are not met – that it would not be apparent whether ER will be available until shares are actually disposed of.



Review now

These changes will impact many claims for ER, and we would strongly recommend that you review your eligibility for ER now.

If your current shareholding fails to qualify under the distribution test, and may not qualify under the proceeds test, your qualifying ownership period has ended. To reactivate eligibility for ER, action to change shareholding will be needed. Please do not hesitate to contact us to discuss whether you need to act to ensure ER will be available on any future disposal.



Age discrimination

Acas has launched new guidance to help guard against age discrimination at work.

Age discrimination - treating someone unfairly because of age - is illegal. Age is one of the nine protected characteristics under the Equality Act 2010. In the workplace, there are key high risk areas in which age discrimination could occur, including recruitment, training and promotion, performance management and retirement. These are important areas for employers to keep under review. Making assumptions about capability or behaviour on the grounds of age, known as 'stereotyping', is another area where employers could potentially leave themselves open to discrimination claims.

Acas deals with such misconceptions as the idea that talking to employees over 50 about future work plans could be discriminatory. There are in fact some occasions – specific and limited - where different treatment because of age can be lawful. For example, there is no longer a set retirement age in most jobs, and employers should not assume that someone is retiring or suggest that they do so. On the other hand, any employee can legitimately be asked about their work plans for the future - whatever their age.
More advice is here **bit.ly/1OHy3by**.

BETTER BUSINESS MANAGEMENT: THE FARM

Keen to take maximum advantage of the opportunities on offer, but not always confident that they have the right management tools to use. That was the picture that emerged from a recent government survey of farming businesses in England.

The Farm Practices Survey 2018 asked a range of questions. These covered innovation; the use of data on market prices in decision making; risk management; the use of financial and management accounting software; and the prevalence of applications for grants and payments. The Survey found that 54% of farms had made key changes in the previous 12 months – often in the form of new or specialist machinery.

But better management was also on the list for farm businesses wanting to make changes. Some 10% of farms had looked to improve their management tools. HMRC's Making Tax Digital (MTD) initiative was also specifically mentioned as a motivating factor. Many farms aimed to manage business risk. Among the top strategies mentioned were good business practice; business diversification; using market information on future prices; and creating financial forecasts. Significantly however, nearly half the businesses surveyed felt that they lacked the risk management tools they needed.

The survey also highlighted the role of the farm advisor. It found that advisors were often key in driving change – prompting innovation and suggesting sources of grant funding. A fresh look at financial management in areas such as cost control; cash flow; and the timing and financing of capital expenditure, will often create opportunities for better business management. We should be delighted to help you take stock of your farm management procedures.

Making Tax Digital for VAT: your questions answered

Making Tax Digital for VAT (MTDfV), the new regime for VAT record keeping and VAT return submission, is now live. All businesses with taxable turnover over the £85,000 VAT registration limit come within the new rules.

What are the digital requirements?

MTDfV means keeping specified records digitally, and filing all future VAT returns direct from your digital records. If you use more than one software product, HMRC requires 'digital links' between them. There are various ways this can be done, including the use of spreadsheets. Please talk to us for advice specific to your circumstances.

Businesses already using software to keep business records will need to check with their provider that products are MTD-compliant. Some businesses will need to change record keeping systems to comply. HMRC regularly updates a list of compliant software **bit.ly/2VkaKKD**. We should be happy to advise on choosing a software product, and what is meant by a 'digital link'.

Do all VAT-registered businesses start at once?

Each business has its own start date, dependent on its VAT quarters. If your taxable turnover is above £85,000, MTDfV rules are compulsory for your first VAT return period starting on or after 1 April 2019.

The only exceptions are for businesses in the deferrals category. These adopt MTDfV rules for their first VAT return period starting on or after 1 October 2019.

Which businesses are deferred?

These are businesses that are: part of a VAT group or VAT division, based overseas, trusts, not for profit organisations not set up as a company, local authorities, public corporations, those making payments on account, annual accounting scheme users, and those using the VAT GIANT service.

Such businesses should all have received written notification of their deferral status from HMRC.

What if my business is a voluntary VAT registration?

If your turnover is below the VAT registration limit, you don't have to enter MTDfV. You can carry on filing as you do at present. But if you prefer, you can join MTDfV voluntarily.

Are there penalties for getting MTDfV wrong?

MTDfV is backed up by penalties, but for the first year, HMRC will take a slightly more lenient approach on penalties for the issue of digital links between software products where businesses are genuinely trying to comply. Businesses are given until at least 31 March 2020 to put digital links in place between software products.

HMRC refers to this as a 'soft landing' penalty period. During this time, cut and paste will continue to be acceptable. Deferred businesses also have 12 months to become fully compliant here.

But there is a very important exception to this. Where VAT return information is transferred out of the accounting records into a separate program for submission to HMRC via the HMRC MTD Application Programming Interface, the transfer must be digital. This would apply, for example, where figures for the VAT return are collated in a spreadsheet and then transferred into bridging software for final submission. The transfer from spreadsheet to bridging software must use a digital link.

Does my business have to do anything to get into MTDfV?

Yes. A business actually has to sign up to MTDfV.

This is done starting on the 'Sign up for Making Tax Digital for VAT' page on gov.uk **bit.ly/2SOEQV1**. You will need your Government Gateway user ID and password, and VAT registration number. HMRC should confirm, by email, that your sign-up has been successful. Confirmation should be received within 72 hours. Alternatively, we can sign up for you.

For HMRC guidance, see **bit.ly/2VutWFR**. Note that this is updated on an ongoing basis at present.

Are there other deadlines to watch?

Getting into MTDfV is a one-off procedure, but careful timetabling is involved.

When you have signed up for MTDfV, HMRC will expect all future VAT returns to be submitted via MTD software. It is thus very important that you have submitted any outstanding non-MTD VAT returns, and are ready to file all future returns with MTD software when you sign up.

If you currently pay VAT by direct debit, you cannot sign up in the 7 working days before or 5 working days after your VAT return is due.

In general, remember HMRC services can experience downtime. You can check whether there are problems with service availability via this link **bit.ly/2HURhgm**.

Can my business quit MTDfV if turnover falls?

Once a business is in MTDfV because turnover is over the taxable limit, it stays within MTDfV - even if turnover then falls below the limit. So the obligation to keep digital records and file VAT returns with MTD-compatible software continues. Only if the business qualifies for exemption or deregisters from VAT do the MTDfV rules cease to apply.

How we can help

As the new system takes effect, we should be delighted to advise on any aspect of MTDfV. We are also able to provide a full VAT return or book keeping service for you, including submission of VAT returns. Please do not hesitate to contact us for further advice.

TAX CHANGE ROUND-UP

Class 2 National Insurance retained

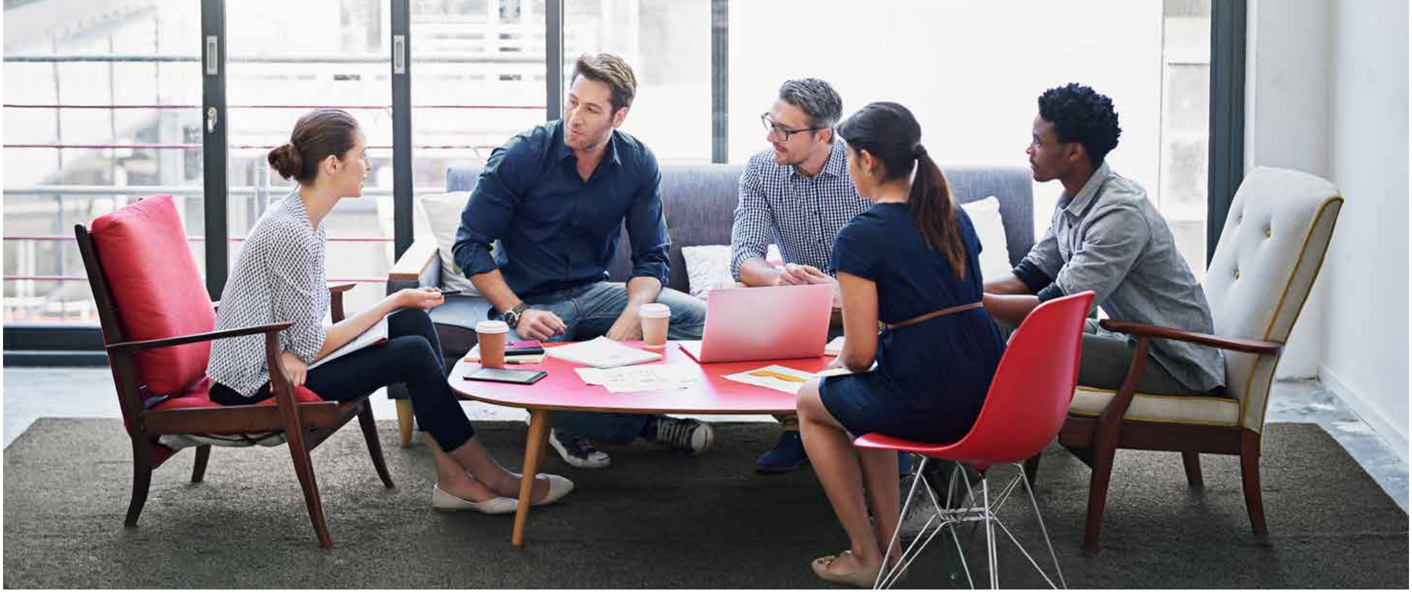
The proposal to abolish Class 2 National Insurance Contributions from April 2019 has been dropped.

Class 2 is paid on profits if you are self employed.

The rate is £2.95 per week for 2018/19 and £3 per week for 2019/20. Where profits are less than the 'small profits threshold' (SPT), there is no liability, but you can make voluntary Class 2 payments to maintain entitlement to state pension and other contributory benefits. The announcement is therefore welcome news for those using Class 2 in this way. The SPT is £6,205 for 2018/19 and £6,365 for 2019/20.

Rent a room changes

Rent a room provides tax relief of up to £7,500 if you let out a furnished room in your own home to a lodger. Proposals to restrict the relief by introducing a shared occupancy test were dropped in Budget 2018. The restriction was aimed at those using rent a room to cover short term letting via Airbnb and other platforms, rather than to provide housing. Retaining the original rules will benefit those, say, looking to let out rooms while they themselves are away on holiday.



How to keep staff

Keeping staff can be difficult. One recent report found that workers in the UK change employer, on average, every five years – and that millennials could have been through four different jobs by the time they are 31.

All of this can spell tough times for employers. High employee turnover means increased recruitment costs. Then there's the unavoidable disruption as new workers bed in, going through the induction and training they need before they're effective new members of your team. There can also be knock-on consequences for morale among staff 'survivors', who can find constant change unsettling.

My generation

It can be helpful to segment your workforce when recruiting and designing incentives. Be aware of the difference between generations. Research suggests that different generations have different search images for employment. Whereas earlier generations have favoured medical and dental insurance as workplace incentives, this appears to have less attraction for millennials. As far as millennials are concerned, the possibility of taking extra leave carries more weight. The difference in generations also shows up when it comes to the factors pulling millennials towards employers. Here they appear to favour the more tech-savvy employer – those with a more digital operation.

Quality of life

Experts are increasingly linking the ease with which staff can be retained to overall feelings of wellbeing. And there is evidence that, right across the board, quality of life incentives offered by employers can make a disproportionate impact to staff perceptions.

Quality of life incentives can be radical and don't always need to cost the employer money. Offering staff the opportunity to bring a dog to work, for instance, could transform employee experience. One company offers Pawternity Leave – 'like Parental Leave, but with more throwing of sticks' - to staff with a new dog. Allowing staff to listen to music on headphones, or personalise their workspace with personal effects are other low-cost, but potentially high-impact, suggestions.

Feedback

Getting a two-way flow of communication, so that employers know what works for staff, and where change might be beneficial is another key recommendation. Carrying out regular staff satisfaction surveys can be one way to do this. An employer can do this formally or informally. One employer sent Valentine's Day cards to staff, asking them to say one thing they liked about their work and one they would like to change. Before long, it reported a 13-point increase in response to the statement 'I believe management will act on feedback.'

Financial stress

Research shows that possibly as many as 40% of employees are under financial stress. This can lead to lower productivity, absence and poor relationships with colleagues. It can also impact mental health. A new and increasingly popular move to help here is staff financial education. Providing skilled advice on budgeting, savings and planning for retirement can make a valuable staff incentive package. We should be delighted to assist in this important area.

Use this area to include your contact details and registered wording.

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