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Newsletter

TAX OWING?

HMRC offers Time to Pay (TTP) where a business or individual is struggling to make a tax payment because of genuine financial hardship or personal difficulties.

TTP can be used for business taxes, such as VAT and employers' PAYE, as well as self assessment liabilities. It can cover all outstanding amounts overdue, including penalties and interest.

You can set up a repayment plan online, without any need to phone HMRC, where the total debt is below a particular threshold. Businesses can apply online where up to £100,000 is owing and individuals owing up to £30,000. To use the online application service, there are also certain other conditions. These can be found on gov.uk, on the page 'If you cannot pay your tax bill on time'. If you fall outside these criteria, it may still be possible to arrange TTP, but a phone call to HMRC will be needed.

There is no standard TTP arrangement. Monthly repayments are always worked out on an individual basis, with reference to specific financial circumstances. They can be varied over time, again based on individual circumstances. The length of the arrangement depends on how much is owed, though the aim is always to repay as quickly as possible. HMRC generally expects repayment within 12 months. Anything longer than this is viewed as 'exceptional'.

Interest still runs on any overdue tax, even where there is a TTP arrangement.

Note, too, that HMRC normally expects any new debt to be paid in full and on time.

HMRC construction industry concerns

Subcontractor verification is under HMRC's spotlight.

With records showing that some contractors are making incorrect Construction Industry Scheme (CIS) deductions, HMRC is currently taking a keen interest in the construction sector.

HMRC's latest compliance drive sees contractors on the receiving end of nudge letters from the tax authority. The letters require contractors to make sure they are making the right CIS deductions from payments made to subcontractors, and briefly recap the rules. Any business that gets a letter from HMRC should make action a priority. If a letter is ignored, HMRC may start a compliance check. If it then turns out that HMRC finds mistakes in CIS returns, a higher penalty scale could apply.

In outline, contractors need to:

- verify all new subcontractors before they are paid
- verify any subcontractors they have used before, if they haven't been included on a CIS return in the current, or previous two tax years and
- make sure that the correct CIS deductions are applied.

Contractors can verify the CIS status of subcontractors using HMRC's free CIS online tool on gov.uk, or using commercial software. Commercial software will be needed to verify more than 50 subcontractors.

As construction businesses will know, the CIS status of subcontractors impacts how they are paid. In some cases, contractors are required to make withholding deductions, representing advance payment of tax and National Insurance by the subcontractor.

- Only subcontractors who have registered for gross payment status (GPS) can be paid without any deduction.
- A deduction of 20% is required for subcontractors registered under CIS.
- A deduction of 30% is required where subcontractors are not registered under CIS.

There has already been change to the process around applying for GPS this year. Since 6 April 2024, VAT has been put on the list of compliance areas that HMRC will check when someone applies for or wants to renew GPS. HMRC also has more bite when it comes to cancellation of GPS. It can now cancel GPS immediately if it has reasonable suspicion of fraud relating to VAT, PAYE, Corporation Tax or Income Tax.

It is more important than ever that businesses using the CIS are up to date with the scheme rules and confident that they are applying them correctly. We are happy to help you check that your business is fully compliant. Please get in touch for more advice.

Extra staff for Christmas

Employers boosting their workforce — even temporarily — need to remember the pensions automatic enrolment rules.

Under the rules, every employer in the UK has an obligation to put specific staff into a workplace pension scheme and contribute towards it. There is no minimum threshold to being an employer: if you employ at least one person, you're classed as an employer for these purposes.

The first step is to check whether you need to provide a pension scheme and make contributions into it. And the answer is yes, if anyone working for you is between the age of 22 and State Pension age, and earns more than £192 a week, or £833 a month. The rules apply equally to short-term, seasonal, temporary or other staff who are not on regular hours or incomes. Any new staff taken on — including seasonal workers — should then be assessed every time they are paid, to see if they need to be put into the scheme. Where staff work irregular hours or receive irregular payments, they will also need to be enrolled the first time they earn over these thresholds.

Employer option

But there is a potential workaround where you know staff will be working for you for less than three months. Called 'postponement', it essentially puts the need to assess staff on hold for three months. Postponement can be used for as many or as few staff as you prefer, and the postponement period doesn't have to be the same length for everyone. During this period, you won't be required to put staff into a pension scheme, or make contributions into it. There is no need to notify The Pensions Regulator if you want to use the process.

There is still considerable small print to get right, however. Staff need to be kept informed: if you intend to use postponement, you must write to staff to say so. There are also time limits to be aware of. You have six weeks from the date postponement starts to write to your staff.

Staff also have rights, and may ask to join or opt into the employer scheme, even during the postponement period. Staff choices over opting in, opting out and joining form a complex area of their own, and we should be pleased to advise further.

Finally, bear in mind that it's only a short-term fix. It's compliance as usual on the last day of the postponement. At this stage, you will have to assess staff to see if they are eligible; put those eligible into your pension scheme; and start to make contributions.

Compliance

Employers will be aware that The Pensions Regulator monitors compliance very carefully, and where an employer doesn't carry out their workplace pensions duties, it may issue a warning notice and deadline for compliance. Where there is continued failure to comply, employers can be fined.

Working with you

The auto-enrolment rules have a long reach and can be daunting to navigate. Please do contact us with any queries or concerns you may have.

HMRC TARGETS SALES OF CATS AND DOGS

If you've made money from breeding or selling cats, dogs and other animals, HMRC could be on your tail.

HMRC thinks there are widespread instances of failure to pay tax on such income, and it's writing to those it believes are involved.

How does it know?

HMRC actively looks for evidence of undisclosed commercial activity. If it's on social media, HMRC can find it. Added to that, it has extensive information-gathering powers that mean it can access data from other government departments; online sales platforms; the Land Registry; DVLA — the list goes on.

The cherry on top is its computer system, Connect. Connect has been described as 'terrifyingly efficient'. It's said to hold more data than all the thousands of shelves in the British Library put together, and it enables HMRC to process huge amounts of information, identify patterns and highlight the sort of inconsistencies that might point to tax evasion. It's this background that the current round of letters should be set against.

Where someone has income more than the £1,000 tax free trading allowance — from the sale or breeding of animals, or from any other source — they may need to declare that income to HMRC. There are, of course, other factors to consider, such as whether there is other taxable income.

Anyone receiving a letter like this from HMRC should take action within the time limits set out in the letter. Even where someone believes they have no undeclared income to disclose, it's important that this is actively communicated to HMRC to avoid the possibility of penalties or further investigation.

In this case, HMRC is sending out two versions of the letter. One invites the recipient to use HMRC's online voluntary disclosure service if they have income to declare from a previous tax year. The other also refers to HMRC's Contractual Disclosure Facility (CDF). But using the CDF is only appropriate where someone admits to tax fraud, and great caution is needed.

HMRC does not send copies of these letters to us, so do please contact us as a priority if you receive one. We should be pleased to help.

Major change for holiday lets

Preferential tax rules for furnished holiday lettings (FHLs) end in April 2025, removing any tax incentive to offer short-term holiday lets, rather than letting residential property on a longer basis.

Where properties have qualified for FHL treatment, income has essentially been counted as trading income, giving access to a range of favourable provisions. The change impacts both individuals and companies, and has effect from 6 April 2025 for Income Tax and Capital Gains Tax and from 1 April 2025 for Corporation Tax.

What's changing?

- **Admin**: Rather than being calculated and reported separately, as at present, income and gains from FHLs will simply form part of your UK or overseas property business.

- **Finance costs**: Though other landlords have had relief for loan interest on residential property restricted to relief at basic rate for Income Tax, for FHLs, interest costs have been allowed in full. From April 2025, loan interest for FHLs will be similarly restricted. This will particularly impact those paying tax at higher rates.

- **Capital allowances**: Rules here have been favourable, giving relief for items like furniture, equipment and fixtures. From April 2025, the rules on capital allowances for FHLs change for new expenditure, and tax relief will come via replacement of domestic items relief. The rules allow that where an existing FHL business has an ongoing capital allowance pool, it can continue to claim writing down allowances on that pool.

- **Disposal of business and business assets**: Capital Gains Tax reliefs for traders, such as Business Asset Rollover Relief and Business Asset Disposal Relief (BADR) have been available for FHLs. With the change, this access will be blocked, ruling out availability of these significant reliefs in the longer term. Relief may still be available where FHLs are sold prior to the change, and we can advise in more depth here.

- **Pensions**: Income from FHLs has counted as relevant UK earnings for pensions purposes, a particularly important planning tool as it may mean tax relief can be given for higher contributions. With the change, such income no longer counts.

- **Losses**: From April 2025, your UK or overseas property business will include the amalgamated profits and losses of all properties in that business. Any losses brought forward from FHLs can be carried forward and set against the future profits of your UK or overseas property business.

Other points to note

- For VAT purposes, the supply of holiday accommodation is standard-rated. It is not an exempt supply.

- Previously, where FHLs have been owned jointly by married couples and civil partners, it's not been necessary to split income in a 50:50 ratio. Under the new rules, there will be a default 50:50 split, unless action is taken. We can advise further here.

- If you decide to cease trading, action is needed before 5 April 2025, and the timing of the sale of a business or business asset is critical to obtaining relief. Anti-forestalling rules are in place to prevent access to CGT reliefs in specific circumstances.

How will it impact me?

If the changes make remaining in the market less attractive, you do have options. Selling the property is one possibility, though there are also tax implications to take into account here. It might be that the disposal is eligible for BADR, and a 10% tax charge. Where BADR is not available, gains would be chargeable at the new 24% rate for residential property. Another possibility is passing property on, perhaps to the next generation. Again, there are tax consequences to think about, and we can advise further here. In some cases, incorporation may be appropriate. This would have to be balanced against the cost of stamp duty and CGT on the transfer.

Finally, if you decide to continue in the holiday market, be aware that tax bills are likely to increase and that scope for pension provision falls.

Working with you

There is a small window of opportunity in the run-up to April 2025 to take stock of these changes and consider whether you might want to restructure your affairs. In this article we have only been able to look at some of the headline issues involved, but we can advise more fully on exactly what the change will mean for you. Please do get in touch.

HMRC's new VAT tool

If you are thinking about registering voluntarily for VAT, or hovering around the £90,000 compulsory registration threshold, the new VAT Registration Estimator tool from HMRC could be for you.

The tool can help you see what registering for VAT could mean for your business in terms of pricing and profits. It also signposts to a range of other VAT guidance. To use it, you input details of business income and costs — though these can be approximate — and select the appropriate VAT rate(s). You can then model what would happen if you added VAT to your current prices: if you absorb some of the VAT into your prices: or if you absorb all the cost. You can also experiment with different income and cost figures.

The tool is accessed through gov.uk guidance pages, by searching 'Check what registering for VAT may mean for your business'. It's free to use and HMRC has no record of the details you provide.

Check what registering for VAT may mean for your business

Jointly-owned property: get it right

A need-to-read case came before the Tax Tribunal recently.

The property and the problem

This was the story of an appeal by taxpayer, Mr Bevan, against penalties for not having notified HMRC of a tax liability in relation to property letting income: and in the event that the penalties were correctly issued, whether he had a reasonable excuse.

The property in question had been bought in 1999. It was owned jointly by Mr Bevan and his wife, and kept for personal use for seven years before being let out, at less than market rent. Rental income was paid into Mr Bevan's bank account. In 2022, HMRC wrote to Mr Bevan asking for details of his property income.

Mr Bevan thought that he had no tax liability in respect of the property. He explained that his income was taxed under PAYE and that the couple considered that all rental monies belonged to Mrs Bevan. She had no other income, and it seemed a sensible way to make use of her Personal Allowance. Since net rental income was less than the Personal Allowance, they did not appreciate that they had to declare it to HMRC.

Unfortunately, no professional advice had been taken to check that these assumptions were right. This was particularly important because the Bevans did not realise that HMRC automatically treats income from jointly-let property as being split equally between spouses, unless an election is made to the contrary.

Muddles and mistakes

The Tribunal was sympathetic, finding Mr Bevan 'a very honest and open witness who fully acknowledged that he did not appreciate all of the subtleties of the issues concerning property income . . . split between joint owners'. But that was not enough.

'What is clear is that there was a muddle and a bona fide mistake was made. We all make mistakes. This was not a blameworthy one. But the Act does not provide shelter for mistakes, only for reasonable excuses. We cannot say that this confusion was a reasonable excuse.'

Its verdict? 'We have found that the Appellant failed to seek the appropriate advice and proceeded on the basis of a misguided assumption.'

Jointly-owned property: the rules

There are special rules for the letting out of property owned jointly by spouses or civil partners. These apply a default 50:50 split of rental income, whatever the actual beneficial ownership of the property. This won't necessarily produce the best outcome for tax purposes, and if the actual beneficial interests in the property are different, an election can be made to change the split. It's done using HMRC Form 17. Evidence of the actual division of the beneficial interests in the property, such as a declaration or deed, will be needed as part of the process.

Take-away message

The case can be summed up quite simply: if in doubt, ask. Should push come to shove, it will always put you in a better place with HMRC. Though as a First-tier Tribunal case, the verdict is not binding, it's a stark reminder of the importance of being up to speed with the rules — and the need to take appropriate professional advice.

EMPLOYERS: AVOID UNWANTED ATTENTION FROM HMRC

The latest tax gap figures show a black hole of more than £3 billion for PAYE. This gap is being put down to employer errors.

The gap that HMRC is talking about is the difference between the amount that is actually paid, and what should, in theory, be collected through PAYE on earnings; other income from employment; and the tax due on occupational pensions taxed through PAYE.

So what do employers have to do to make sure they don't accidentally end up on the wrong side of HMRC's statistics? Good record keeping is always key. So, too, is prompt payment of PAYE and National Insurance contributions, and timely filing of RTI returns and P11Ds. Making sure that employee information is accurate; and knowing what to do to correct an error as soon as it is discovered — these are also important. Mistakes can get in where a business miscalculates someone's employment status. Where a payroll system hasn't been updated. Where employee records didn't note a change to salary, hours or personal details.

There's more than enough to prove challenging, and with the risk of penalties, mistakes can soon become expensive. We can help you check that you are operating PAYE correctly. Please do talk to us if you would like help or advice in this area.