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Get ready for Making Tax Digital for VAT

From 1 April 2019 VAT registered businesses will be required to comply with MTDfV.

Requirements include:

- keeping records digitally
- using MTD 'functional compatible software' to create the VAT return
- submitting VAT returns via an Application Interface (API)

Let us help you prepare for MTDfV.

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QUARTER 1

MTD is coming

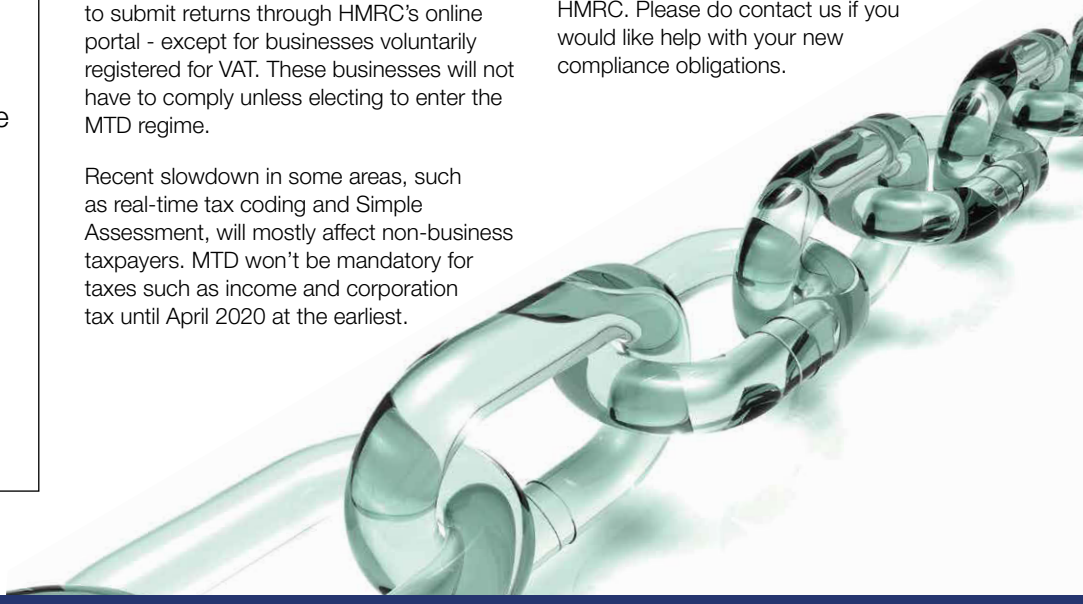
Making Tax Digital (MTD) is on the horizon for many businesses. It represents a momentous change in the way taxpayers keep records and submit information to HMRC.

MTD affects VAT first. For return periods starting on or after 1 April 2019, businesses operating over the VAT threshold (currently £85,000) must keep records digitally, using MTD functional compatible software. That's essentially software, or a combination of software and spreadsheets, which can connect to HMRC via an Application Programming Interface. VAT submissions will then be made direct from the digital records. Manual input will not be acceptable, although there will be a 'soft landing' period of 12 months where HMRC will not impose penalties if digital links do not exist between software programs used for submission. It will no longer be possible to submit returns through HMRC's online portal - except for businesses voluntarily registered for VAT. These businesses will not have to comply unless electing to enter the MTD regime.

Recent slowdown in some areas, such as real-time tax coding and Simple Assessment, will mostly affect non-business taxpayers. MTD won't be mandatory for taxes such as income and corporation tax until April 2020 at the earliest.

Going forwards

HMRC are currently carrying out a VAT pilot and income tax pilot for small businesses and landlords. Whilst not necessarily advantageous to participate in these, this is definitely the time to consider the next steps on the road to MTD for you and your business. Businesses currently keeping manual records would be well advised to make the transition to digital record keeping, and businesses already digital will need to check when their software provider will meet MTD requirements. Upgrades or bespoke solutions may be necessary to ensure data can be sent seamlessly to HMRC. Please do contact us if you would like help with your new compliance obligations.



IR35 – change ahead?

IR35 is very much in the news. Over the last months, there have been several tax tribunal cases involving IR35 contractors – one high profile case going against BBC Look North presenter, Christa Ackroyd, and another going against HMRC, in favour of an IT contractor who had worked on the Universal Credit programme for the DWP.

HMRC have found it difficult to enforce their view of the applicability of IR35 - or 'off-payroll working' legislation, so the government is consulting on how to increase compliance. The consultation hinges on the premiss that 'Current legislation is not working effectively. The cost of non-compliance in the private sector is high and growing - projected to increase from £700 million in 2017/18 to £1.2 billion in 2022/23.' Looming large is the question of whether rules brought in for public sector engagers in 2017 should be adapted for private sector engagers.

IR35 rules were introduced in 2000 to apply in cases where someone would have been treated as an employee, had they not been working through a limited company in which they had a 'material interest.' According to HMRC, they are 'Intended to stop individuals avoiding employment taxes by working through their own company. This affects contractors including IT consultants, management consultants, and project managers.'

In April 2017, changes introduced in the public sector made the end user responsible for making a decision as to whether IR35 rules apply, and then deducting and paying tax due. HMRC believe this has increased compliance in the public sector - as well as raising an additional £410 million in income tax and National Insurance contributions. HMRC research suggests public sector employers have not taken an unduly cautious approach, generally assessing employment status on a case-by-case basis.

No firm decision about extending IR35 decision-making responsibility to the private sector has been made. HMRC also emphasise that 'The fundamental principles of the off-payroll working rules - that the employment status test determines who should be taxed as employees' are not currently up for discussion. The focus is simply how to facilitate compliance in the private sector in the light of results from the public sector reforms.

Whilst HMRC estimate that two thirds of those working through a company are genuinely self-employed, and outside the scope of the rules, decisions about employment status can be very difficult. The rules are complex, involving consideration of such criteria as mutuality of obligation, the degree of control exercised, and the right of substitution. If you would like to review the management of your business in the light of current developments, we would be happy to advise.

New tax year, new tax plans

As we head into the season to submit tax returns for the tax year ended 5 April 2018, it's a good time to think about saving tax in the current tax year. There are many points to consider as you plan for the future, and we will be pleased to advise in areas of such perennial importance as the following:

Disposing of capital assets

Careful planning is essential when it comes to disposing of capital assets such as a second home, jewellery, shares, a business or antiques and works of art. An individual can make capital gains up to the annual exemption limit without paying capital gains tax, and each spouse/civil partner will have their own limit. For 2018/19, this limit is £11,700. It can't be carried forward to a future tax year, and can't be transferred to anyone else, including a spouse or civil partner. Thus it can sometimes be advantageous to transfer *assets* between spouses or civil partners to ensure that each individual's annual exemption is used.

Making the most of your pension

The annual allowance, which sets a cap on the amount you can contribute to a pension and still get tax relief, is £40,000 in 2018/19. Contributions in excess of this are potentially charged to tax on an individual as the top slice of income. There are, however, restrictions on the annual allowance available for those with adjusted annual income over £150,000, so that it can potentially be reduced to a minimum of £10,000.

However, unused annual allowance can often be carried forward for up to three years. This means unused allowances for the three years prior to the current tax year can be used this year. The remaining allowance for 2015/16 would therefore need to be used by 5 April 2019, but can only be utilised after using the annual allowance for the current year.

Using your ISA allowance

Individual Savings Accounts (ISAs) can make a tax-efficient investment, since income from ISA investments is exempt from income tax, and capital gains made on investments held in an ISA are exempt from capital gains tax. The maximum you can save in ISAs for 2018/19 is £20,000. This can be split between different ISAs, though funds may be invested in only one of each type per tax year. An ISA allowance can't be carried into the next tax year, so it's worth planning now to take advantage of it.

There are now quite a range of ISAs on offer. They include the Innovative Finance ISA, designed for peer to peer lending - essentially lending that cuts out a bank. These usually offer higher returns because of the higher risk. An ISA portfolio could include a small subscription in a higher risk ISA like this.

Adults under the age of 40 might want to consider the Lifetime ISA. Here up to £4,000 per annum can be invested. This counts towards the overall annual ISA limit, but the advantage is that the government will put in a 25% top up, up to a maximum of £1,000 per annum. The Lifetime ISA is designed to fund the purchase of a property for a first-time buyer to live in (not as a buy-to-let), or to save for later life. Where two first-time buyers are buying a home together, each buyer – if eligible – can take advantage of the Lifetime ISA bonus. There are various conditions, including a charge for early withdrawals.

If you are considering a capital disposal this tax year, or considering investment or pension choices, we would be delighted to help you structure your affairs tax efficiently.

Buying property across UK borders

Now that Wales and Scotland each has its own property tax regime, the rules affecting the purchase of property have changed. Close attention to detail will be needed to ensure that correct procedures are adhered to. In some cases, the purchase of land and property may now qualify as a 'cross border' transaction, and in this case, special rules apply.

The newest development in devolved property tax is very recent, and affects Wales, where SDLT was replaced by Land Transaction Tax (LTT) for purchases on or after 1 April 2018. In Scotland, Stamp Duty Land Tax (SDLT) was replaced by Land and Buildings Transaction Tax (LBTT) for purchases on or after 1 April 2015.

The existence of multiple UK tax regimes gives rise to the possibility that a property transaction may now incur liability to more than one tax. This could happen in one of two ways. It could arise where a single property, comprising land on both sides of the English-Scottish or English-Welsh border, is purchased. This could be a farm straddling both sides of a border, for example.

Liability could also arise where there is a 'multiple property transaction.' This could be the case where there is a single agreed amount of consideration for the purchase of two or more property interests in different UK tax jurisdictions – whether that's as a single transaction or a number of connected transactions. So liability could arise via a single transaction whereby a purchaser acquires a business which includes three shops – one in Wales, one in Scotland, and one in England, for example, or where a holiday accommodation business, comprising properties on both sides of say, the Scottish border, is purchased.

In eventualities such as these, the total consideration must be divided or apportioned on a just and reasonable basis to determine the appropriate consideration for the part in each UK tax jurisdiction. As with any tax matter, it is open to the relevant tax authority - HMRC, the Welsh Revenue Authority (WRA) or Revenue Scotland (RS), to challenge any return made or enquire into the basis on which apportionment was made.

Example

A farm in Powys is being sold. It comprises 20 fields, a farmhouse, bungalow and agricultural buildings. Nine fields are wholly in England, nine wholly in Wales, and two in both England and Wales. Here apportionment would need to take into account where buildings are located and the nature of the buildings, as well as any parts of the land that may be more valuable because of location, access, use or development (such as field drainage).

Where the consideration (as apportioned) is more than the limit for notification to the relevant tax authority, a return will be needed. Potentially, then, up to three tax returns may be needed – for SDLT, LBTT and LTT - with payment made to three different tax authorities: HMRC, the WRA and RS.

This is a complex area, and we are more than happy to advise, for example in relation to the apportionment of consideration. This may be especially relevant if there is any question of a claim to private residence relief for capital gains tax purposes being involved. Please do not hesitate to contact us for further information here, or on any other tax aspect of a property transaction.

Employee rights: shared parental leave

Following suggestions that less than half the public is aware of the scheme, HMRC are promoting awareness of Shared Parental Leave (SPL) rights among employees.

SPL and Statutory Shared Parental Pay (ShPP) provide flexible childcare options in the first year after the arrival of a new baby, enabling both parents to share childcare, and giving mothers the ability to go back to work sooner. Parents adopting or involved in surrogacy arrangements are also eligible.

In practice

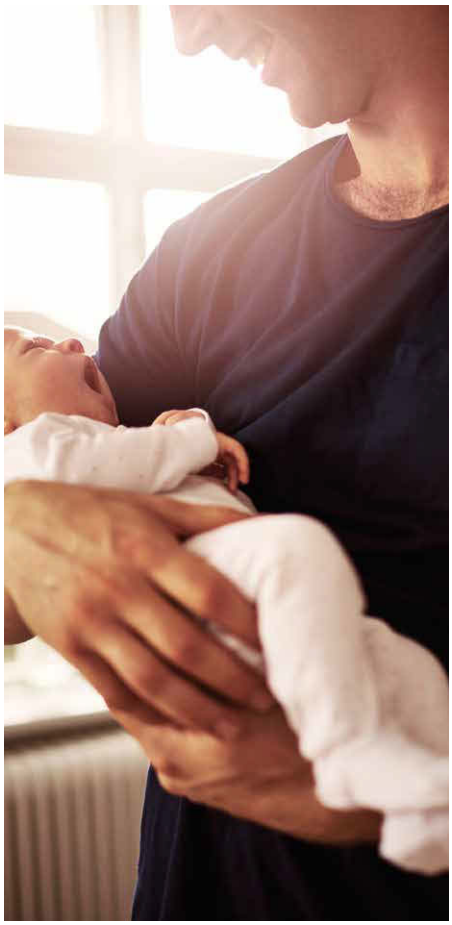
SPL involves quite a lot of admin for participating parents - and their employers. Parents, for example, will have to provide the employer with specific information in the form of written notices and declarations. Gov.uk offers model forms, though as a matter of convenience, employers may want to consider creating their own bespoke forms. There is however no legal requirement for them to do so, nor for employees to use them. The Department for Business, Energy and Industrial Strategy report that one question commonly asked is 'Will my employer know if I qualify for SPL?' Employees can be advised that an employer is not in a position to answer this until an employee tells them - because to be eligible, **both** parents must meet certain conditions.

To qualify, an employee must generally:

- have worked continuously for the same employer for about 40 weeks
- intend to share responsibility for childcare with the other parent
- to claim ShPP, earn at least the lower earnings limit £116 (2018/19) or £113 per week (2017/18), over an eight-week period.

The other parent must also satisfy work and earnings criteria.

Employees should be advised to use the Eligibility Checklists on gov.uk **goo.gl/dCicPz**



Income or gains from abroad?

There are new tough penalties on the horizon for UK taxpayers who haven't told HMRC about foreign income or gains on which UK tax may be due.

Story so far

In 2016, HMRC began a new initiative to bring taxpayers up to date if they hadn't declared all their income or gains arising outside the UK. As part of this, the 'Worldwide Disclosure Facility' was set up for taxpayers to notify HMRC about any outstanding liability.

There are three key developments making the initiative particularly important just now. One is HMRC's imminent ability to access financial information from over 100 different countries under new international information-sharing powers. The 'Common Reporting Standard' gives access to information about bank accounts and investments in jurisdictions worldwide.

The second is the 'Requirement to Correct' (RTC). The purpose of the RTC legislation is to require those with undeclared offshore tax liabilities to correct the position by 30 September 2018. The liability could relate to income tax, inheritance tax or capital gains tax, and applies to non-compliance that took place before 6 April 2017. It means that HMRC can go back to the tax year 2013/14, or 2011/12 if the failure to disclose is 'careless.' Where the loss of tax is due to 'deliberate' behaviour, HMRC may be able to go back further than this. There is no set route for making a disclosure, but a person could, for example, comply with the RTC by using the Worldwide Disclosure Facility.

Finally, from 1 October 2018, a much tougher penalty regime for failure to correct is brought in, with a minimum penalty of 100% of the tax owed, in addition to the outstanding tax and interest on overdue tax.

Who and what is affected?

Individuals, partnerships, trustees or non-resident landlord companies are all within the scope of these rules.

UK residents are liable to UK tax on their worldwide income and gains, and a wide variety of common situations can potentially give rise to tax consequences in the UK. These include letting out a property abroad, such as a holiday home, or receiving income from a share in a family business overseas. Receiving income from an offshore bank account is another common example – and

'offshore' in this context includes the Channel Islands, Isle of Man and Republic of Ireland, the EU or anywhere else in the world.

The tax treatment of offshore income is complex, but acting with professional assistance should always ensure a better outcome. Please do not hesitate to contact us for advice.

Save energy, save tax - with Enhanced Capital Allowances

Did you know that a business which invests in energy-saving plant or machinery may be able to take advantage of an HMRC tax break?

Saving tax

For many businesses, capital expenditure will be covered by the Annual Investment Allowance (AIA). AIA gives full tax relief for capital expenditure in the year of purchase, and covers most plant and machinery, up to an annual limit of £200,000. Where expenditure exceeds the AIA, the balance is dealt with via an annual writing down allowance (WDA). WDA is currently 18%. There are however, some types of expenditure which are only eligible for WDA at 8%. There are also separate rules for cars, which do not qualify for AIA.

But there can also be occasions when a business can benefit from Enhanced Capital Allowances (ECAs) - although the regime is a little less favourable now than it was. ECAs are designed to facilitate investment in energy-efficient equipment, the initial cost of which can be greater than other products. ECAs provide accelerated tax relief by giving a 100% capital allowance in the year of purchase. A business can therefore benefit where total capital expenditure is more than £200,000. ECAs may also have the effect of turning an accounting profit into a tax loss. Where an ECA claim by a company creates or increases a tax loss, then the loss attributable to ECAs can be surrendered for a cash credit in some circumstances. Until 31 March 2018, the cash credit was 19%, but is now two thirds of the CT rate in force for the accounting period.

Saving energy

ECAs are available on the purchase of specific high-performance energy-efficient equipment, such as boilers, electric motors, air conditioning and refrigeration systems. Water-efficient technology products such as water-efficient taps, toilets and industrial cleaning equipment are also eligible.

The Energy Technology List identifies particular products which perform to ultra-high levels of energy efficiency. It is investment in these products which qualifies under the scheme. The list can be found here **goo.gl/N7q2r1** The Water Technology list consists of 14 categories of water technologies on which ECAs can be claimed and can be found here **goo.gl/j2WfrL**

Your business choices

The list of assets eligible for ECAs is updated frequently. Claims can fail through misinterpretation of exactly which products qualify, and it is important that the list is checked when relevant expenditure is made. ECAs are claimed via the corporation tax return or income tax return, and records of any purchases or installation costs should be kept. Please do contact us at an early stage so that we can guide you through a trouble-free claim. And whatever the nature of your capital expenditure, we would be delighted to help you take an overall look at tax and profitability in your business, working out the best time to invest in new equipment.

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