The Construction Industry
Joint Taxation Committee

JTC

JTC NEWSLINE

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Interest rates

As usual, HMRC has increased interest rates for most late payments of taxes, after the Bank of England raised the base rates.
From 21st February 2023 the late payment interest rate will be 6.5% and the repayment interest rate 3%.
Details of how the rates are calculated and a list of historic rates can be found here. ■

Tax free childcare scheme

This was a new one on me, so perhaps it's worth reminding others. If you earn less than £100,000 a year, have a child under eleven (or a child under 16 with a disability), then it's possible you could boost your household income by up to £2,000 per child per year by opening a "tax free childcare account" for each child. The government will top each account up by 20% up to a total of £2000 per child per year. You then use the account to pay for any approved childcare, whether nursery, a childminder, breakfast or after school club, holiday care or an out of school activity. The full details can be found here. ■

Guidance for umbrella company employeees

HMRC has guidance here for workers who are employed via an umbrella company. I am never sure how useful it is for HMRC to stress the employees' responsibilities in this area, particularly given the imbalance in power between the, usually non-unionised, individual employee and the employing structure but, after some scandalous cases that have emerged from the loan charge it is at least helpful to make sure that no-one can be in any doubt of HMRC's thinking and the risks of taking it lightly. ■

VAT notice howler

Blink and you might well miss it: the Education and vocational training (VAT Notice 701/30) was updated on 6th February "The VAT liability of building work for education establishments has been updated in paragraph 15.1 to remove "carrying out of an approved alteration to a 'listed building' as zero-rated work." This is because there was a mistake in the notice – it had said that construction services provided by builders and relating to alterations on a listed building used for accommodation for students were zero rated, a provision that was abolished in 2012. Apparently the slip had been missed for ten years until some enterprising school head tried to argue with their builder and the builder asked their accountant who pointed HMRC to the error. Check your sources!. ■

Self assessment payments in instalments

You will already know that, should you be unable to pay your self assessment tax bill in one go, you can set up a payment plan to pay off the tax and interest in instalments.
However you may not know that, if your self assessment returns and payments are up to date, you can set up a plan to pay in instalments in advance. Details of how to do this are given here but of course you will need to consider whether you have the self discipline to put the money aside in an interest paying current account instead.
Better in your bank account than in HMRC's is usually a good rule of thumb, but there are obvious attractions of knowing you are up to date with no tax bills outstanding. ■

Basic PAYE tools

If you use HMRC's "Basic PAYE tools" software to run your payroll you will need to make sure you are using the most up to date version. There is a new version due at the end of March and HMRC advises you to check you are using version 23.0 for any payroll run after 6th April 2023. ■

Top up your state pension

It has been widely reported that there is a last chance opportunity to top up your state pension with any years you might have missed making the relevant NICs contributions and that the window to make more than a couple of years' contributions would close in April.

However as a result of the success of the campaign there has, of course, been a rush of people trying to contact HMRC to find out whether and how they might do this and, as a result, the deadline has been pushed back to July .

Find out how on the gov.uk website. ■

Benefits in kind reporting

From 6th April HMRC will no longer accept "informal" agreements to payroll benefits in kind and you will need to register online to report any benefits in kind you pay your employees.

- If you have an informal payrolling agreement in place you must now register to payroll your benefits formally for 2023-24. (Go here to see how.)
- Similarly, if you have not previously payrolled benefits in kind you now need to register to do so from 6th April (i.e. for the 2023-24 tax year).
- If you've paid benefits in kind to any employees for the previous year then you must send a P11D and a P11D(b) to HMRC no later than 6 July 2023, or you may be charged a monthly penalty.

The HMRC announcement can be read here.

If this is all new to you, there will be online training from HMRC: search for the 'Submitting forms P11D and P11D(b) online' webinar. This will be live in May, June and July 2023. The recording will also be uploaded to the webinar page. ■

Advisory fuel rates from 1 March 2023

The latest update applies from 1st March 2023. These rates only apply to employees using a company car.

You can use the rates when you either:

- reimburse employees for business travel in their company cars
- need employees to repay the cost of fuel used for private travel

Note: From 1st March 2023 the advisory electric rate for fully electric cars will rise from 8 pence to 9 pence per mile.
Hybrid cars are treated as either petrol or diesel cars for advisory fuel rates.
You can use the previous rates for up to 1 month from the date the new rates apply.

The details can be read here. ■

The new rates per mile are:

Engine size	Petrol	Diesel	LPG	Electric* *Fully electric cars only
1,400cc or less	13p		10p	9p
1,600cc or less		13p		9p
1,401cc - 2,000cc	15p		11p	9p
1,601cc - 2,000cc		15p		9p
Over 2,000cc	23p	20p	17p	5p

Reading (for interest only)

Cautionary tale

Building company director jailed for defrauding the taxpayer of £2million by evading income tax, VAT, NICs and CIS. There are times when any company will have funds in its bank account that it has collected on behalf of the taxpayer and the temptation is always there to treat those funds as if they were your own.

The simple takeaway from this case is: don't do it. ■

Reading (for interest only)

When is a roof not a roof?

Court cases on interpreting VAT rules are notoriously fixated on detail (the infamous example is whether a Jaffa cake is a cake or a biscuit). Not something you need to read, but if you are involved in roofing and have time on your hands you may be interested to read the Greenspace case, where the Court of Appeal had to decide whether the conservatory roof panels Greenspace sold were "insulation for roofs" and so carried a reduced rate of VAT, or not. Spoiler alert: they weren't.■

If you have any feedback or queries relating to any of the items in Newsline email: wendy.bradley.42@gmail.com

JTC BRIEFING

March 2023

Basis period reform

Matt Barton

Basis period reform is designed to simplify the tax system for the government, but in doing so will potentially increase the complexity for self-employed individuals and trading partners. Currently, your tax return will show the profits for the twelve month accounting period that ends in the tax year – a straightforward twelve-month calculation. Under the reform your tax return will need to align with the tax year (6th April – 5th April) regardless of your business's accounting year. Potentially, this will mean calculating tax due for part of the year, making it a more complex calculation.

Who's affected?

Self-employed traders and partners in trading partnerships will all be affected, unless your accounts are made up to a year end of 5th April or 31st March, in which case you will be unaffected by the reform.

What's changing?

Currently, tax is reported on the current year basis, i.e. aligned with the twelve months in your accounting year. Basis period reform is changing this to a **tax year basis** so that your profit or loss for a tax year will be the profit or loss arising in the tax year itself (regardless of your accounting period). The reform was announced in the 2021 Autumn Budget and legislated in the Finance Act 2022. It comes into effect from the 24/25 tax year, with the 23/24 tax year as a transitional period.

The stated intent of basis period reform is to simplify the tax system, but it will inevitably complicate things for traders with accounting periods different from the tax year. In the example below, with a 31st August year end it should be possible to know before the tax year ends what profits or losses will be realised. Under the tax year basis, the trader(s) will need to predict profit or loss through 31st August 2025, which falls almost 5 months after the end of the relevant tax year.

Going forward, you may want to consider whether to keep your existing accounting period or align with the tax year.

For example

If your accounting period runs 1st September – 31st August each year, under the **current year basis** your basis period for the 24/25 tax year would cover profit or loss for the year running 1st September 2023 – 31st August 2024. This is because your accounting period ending 31st August 2024 falls within the tax year running 6th April 2024 – 5th April 2025.

Under the **tax year basis,** your basis period for the 24/25 tax year will be:

- 148/366ths of your profit or loss for your accounting period 1st September 2023 –31st August 2024, **plus**
- 217/365ths of your profit or loss for your accounting period 1st September 2024 – 31st August 2025. ■

What about the transitional year?

Basis period reform comes into effect from the 24/25 tax year onwards, with 23/24 being the transitional year. In 23/24, affected businesses will be taxable on their profits on the current year basis, **plus** the period up to the end of the tax year.

What about the transitional year? contd

For example, a trader with an accounting period ending 31st August would be taxable on:

- 100% of profit or loss for the accounting period 1st September 2022 – 31st August 2023, **plus**
- 218/366ths of profit or loss for 1st September 2023 – 31st August 2024

This could pose a significant cashflow risk, arising from your inflated tax bill. To mitigate this, you can spread **transition profits** (profits above those from your current year basis) over five tax years, beginning with the transitional year 23/24 itself.

For example, a trader with an accounting period ending 31st August who made £100,000 profit for the current year ending 31st August 2023 would face transition year tax on:

- £100,000 profit generated 1st September 2022 – 31st August 2023 (standard profit), **plus**
- 218/366ths of their profit for 1st September 2023 – 31st August 2024 (transition profit)

The trader estimates their profit for the year ending 31st August 2024 will be £110,000. 218/366 of £110,000 is £65,519.13.

If the trader elects to not apply spreading to their transition profit, their taxable profit for 23/24 will be £165,519.13 (£100,000 + £65,519.13).

If they do elect to apply spreading, their taxable profit for 23/24 will be £113,103.83 (£100,000 + one fifth of £65,519.13).

Note that if you are carrying any overlap profits from prior accounting period changes, these must be offset against the profits of the transitional tax year 23/24 before spreading your transition profits. There is no facility to defer the use of overlap relief to a future date.

What is overlap relief?

You might be carrying overlap relief if some of your profits were taxed twice during your business's first years of trading.

Under the current rules, an unincorporated business is taxed in its opening year on profits from its date of commencement to the following 5th April (the end of the tax year).

In the second and third tax years of a new business' operation, if its current year basis is not aligned with the tax year basis, it may be taxed twice on some profits where there is overlap between its accounting period and the tax year.

If your accounting period has always been aligned with the tax year, you will not have been taxed on any overlap profits and so will not be carrying any overlap relief.

For example, if a business starts trading on 1st July 2017 but prepares its accounts to an accounting date of 31st May:

- In tax year 17/18 the business would be taxed on the period 1st July - 5th April 2018
- In tax year 18/19 the business would be taxed on its first 12 months of trading: 1st July 2017 – 30th June 2018
- In tax year 19/20 the business will be taxed on its accounting period ending in the tax year, 1st June 2018 – 31st May 2019

The periods 1st July 2017 – 5th April 2018 (in tax year 18/19), and the month of June 2018 (in tax year 19/20), have been taxed twice.

The business has been taxed on its overlap profits, and automatically carries overlap relief for these overlap profits as a result.

If you changed your accounting period after you started trading, further overlap profits might have arisen.

What is overlap relief? contd

For example, if your accounting period ended 30th September, and in 2020 you changed your accounting date to 30th April:

- In tax year 19/20 you would be taxed on profit for the year 1st October 2018 – 30th September 2019
- In tax year 20/21 you would be taxed on profit for the year 1st May 2019 – 30th April 2020

In this example, 1st May 2019 – 30th September 2019 would be your overlap period, where you would be taxed on profits twice. If you were carrying any overlap relief from overlap profits in your first years of trading, you could "cash this in" by deducting your unrealised overlap profits from the overlap profits in the tax year where your accounting period changed.

Under the current rules, overlap relief can only be claimed if a business changes its accounting date or ceases trading. If overlap relief is still being carried when a business ceases, the overlap profits will be deducted from the profits assessed in the business's final tax year.

This is changing with basis period reform, which dictates that overlap relief cannot be carried past the transitional tax year 23/24, making this the last opportunity to realise any overlap relief you are carrying.

If you're unsure if you are carrying any overlap relief, ask your accountant or refer to your tax returns for your first years of trading (and if applicable, the tax year in which you previously changed your accounting period). ■

What's the deadline?

The transitional tax year for basis period reform is the year ending 5th April 2024. Therefore, the key deadline to bear in mind is the Self-Assessment deadline of 31st January 2025. Given the potential impact of transition profits on your tax bill, you should start thinking about your return sooner than usual.

What are the penalties for non-compliance?

Basis period reform is legislated, so you'll need to prepare and pay tax on profits on the tax year basis outlined above. Inaccurate returns will require amendment and resubmission. Late submissions will incur automatic penalties from HMRC, and any late tax paid due to inaccurate returns will result in late payment interest (and in some cases, additional penalties).

What should I do next?

There are many reasons to discuss basis period reform with an accountant, including whether to change your accounting period, issues with income-dependent tax allowances, forecasting future profit or loss, and concerns over submitting accurate and timely returns. ■

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