TAX BRIEFING

SPRING 2023

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PLANNING DIVIDENDS IN 2023

Owners and directors of family businesses often take a small salary from the company and any extra funds as dividends.

Taxpayers who receive dividends in excess of their dividend allowance need to inform HMRC

Owners and directors of family businesses often take a small salary from the company and any extra funds as dividends. Other family members may also hold shares in the company and receive a dividend each year.

The first £2,000 of dividends received by each taxpayer is currently tax-free but that dividend allowance will be cut to £1,000 on 6 April 2023 and £500 in April 2024. Your company may wish to review how and when it pays dividends to family shareholders this year. We can help you with this.

Taxpayers who receive dividends in excess of their dividend allowance need to inform HMRC of that income and, in many situations, will have to complete a tax return to declare their taxable dividends.

Dividend income is treated as falling into the taxpayer's highest tax band where it is taxed at these rates in 2022-23:

- basic rate band: 8.75% (other income taxed at 20%);
- higher rate band: 33.75% (other income taxed at 40%); and
- additional rate band: 39.35% (other income taxed at 45%).

These dividend tax rates were increased on 6 April 2022 and could be increased again in the Spring Budget on 15 March.

COPING WITH AN HMRC NUDGE

Marketing companies know that personal letters sent directly to customers are more powerful than broadcast or printed adverts. HMRC are using this technique to recover unpaid tax.

If you receive a nudge letter from HMRC which says that you may have additional tax to pay, please contact us

HMRC match data from a wide range of sources to tax returns and will write to individual taxpayers where an anomaly is found. These 'nudge letters' cover a wide range of topics from holiday lettings to online sales. Companies may also receive nudge letters about R&D claims or taxes due on residential property.

The letter will often enclose a certificate of tax position to complete and return but there are good reasons why you should not do this.

If you receive a nudge letter from HMRC which says that you may have additional tax to pay, please contact us without delay.

Where there is additional income to declare we can help you calculate what tax is due and draft a full disclosure including figures for interest and penalties. In any event you should respond to HMRC within 30 days with an indication of whether a disclosure will be required.

This newsletter is written for the general interest of our clients and is not a substitute for consulting the relevant legislation or taking professional advice. The authors and the firm cannot accept any responsibility for loss arising from any person acting or refraining from acting on the basis of the material included herein.

MTD FOR INCOME TAX DELAYED AGAIN

Making tax digital for income tax self-assessment (MTD ITSA) was set to take effect from 6 April 2024. This has been postponed until 6 April 2026.

We can help you decide whether you need to change your accounting period

The new regime will require sole traders and individual landlords to keep their business records digitally and to send summaries of business income and expenses to HMRC at least quarterly.

For the first year, only businesses with annual turnover of over £50,000 will need to follow the MTD ITSA rules and from 6 April 2027 that turnover threshold will be reduced to £30,000. No date has been set for partnerships to enter the MTD ITSA regime and the expansion of MTD to corporation tax now seems a very distant ambition.

The Government has said that it will review the MTD ITSA service to see how MTD ITSA can be shaped to meet the needs of these smaller businesses and the best way for them to fulfil their income tax obligations. Only when that review is complete and after consultation with businesses, tax agents and others will the Government set out plans for any further mandating of MTD ITSA beyond 2027.

Regardless of the MTD ITSA start date all unincorporated businesses including partnerships will have to report profits to HMRC for a period that aligns with the tax year from 6 April 2024.

If your business uses an accounting period which does not end on 31 March; 5 April; or a day between those dates there will be some complicated calculations to undertake for 2023-24. Certain partnerships and seasonal businesses could be adversely affected by this change.

We can help you decide whether you need to change your accounting period and assess the ongoing costs if you decide not to.

LARGEST EVER NMW RISE

The national minimum wage (NMW) and national living wage (NLW) rates are due to rise significantly for pay periods starting on and after 1 April 2023.

These increases - the largest since the NMW began - are being introduced because inflation is running at around 10%.

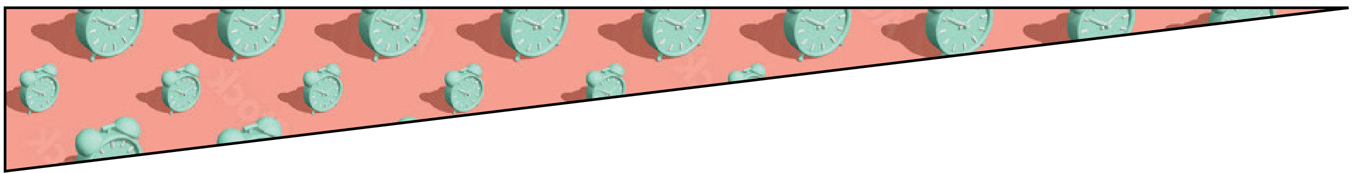
Age of worker	Hourly rate from 1 April 2022	Hourly rate from 1 April 2023
23 and above	£9.50	£10.42
21 to 22	£9.18	£10.18
18 to 20	£6.83	£7.49
Under 18	£4.81	£5.28
Apprentice	£4.81	£5.28

Employers should be careful not to make deductions which reduce workers' wages below the relevant NMW rate. For example withholding money through the payroll for employee uniforms; staff meals; or subsidised childcare could break the NMW rules.

If you run a salary sacrifice scheme for childcare, check that the amounts paid after the salary reduction still meet the NMW rate for the employees in the scheme. It may be necessary to redesign the childcare scheme so that it is run outside of the payroll. We can help you with that.

Where you provide accommodation for your workers you can charge rent and this deduction is permitted under the NMW rules but only if it does not exceed £8.70 per day. This permitted accommodation off-set will rise to £9.10 per day from 1 April 2023.

Where the NMW rules are broken HMRC can impose penalties of up to 200% of the amount of NMW underpaid up to £20,000 per worker.



NEW VAT LATE-FILING PENALTIES

All VAT returns must now be submitted digitally using MTD compatible software (unless the business has an exemption) so the VAT penalties have been revised to fit with this new regime.

There is no soft-landing for the new system of late-filing penalties

If you submit a VAT return late for a period starting on or after 1 January 2023 the HMRC computer will automatically allocate a late-filing 'point' but not a monetary penalty. Only when you have collected several points will you receive a flat £200 penalty.

The penalty threshold depends on how regularly you file your VAT returns:

- quarterly returns: 4 points;
- monthly returns: 5 points; and
- annual returns: 2 points.

Businesses that file quarterly VAT returns become liable to pay a £200 penalty when they file the fourth VAT return late. Each subsequent late VAT return triggers another £200 late-filing penalty until the points slate is wiped clean by a period of perfect compliance.

Perfect compliance is achieved by completing all outstanding VAT returns and filing all VAT returns on time for twelve months. Annual and monthly filers have different periods to meet for perfect compliance.

It does not matter whether the VAT return shows a repayment or VAT owing - if it is delivered late a point or penalty is charged. There is no soft-landing for the new system of late-filing penalties.

The old system of surcharges for late paid VAT does not feed into the new late-filing penalty system.

NEW VAT LATE-PAYMENT PENALTIES

In addition to the new penalties for late VAT returns (see above) there is also a new system of penalties for late paid VAT.

This is a much fairer system than the old VAT default surcharges

For VAT periods beginning on and after 1 January 2023 you will have up to 15 days to pay your VAT - or arrange a time to pay agreement - before HMRC charge a penalty. In 2023 this 15-day grace period will be stretched to 30 days while traders get used to the new system.

From 2024 onwards the penalties are calculated as 2% of the unpaid VAT at day 15 and a further 2% of the unpaid VAT at day 30. If no payment is made until after day 30 the first penalty will be 4% of the amount due. However if full payment is made between days 15 and 30 the first penalty will be set at 2%.

From day 31 a second penalty is charged daily based on an annual rate of 4% of any outstanding VAT due.

In addition to the penalties charged for paying late, interest is charged on any late payment at the Bank of England base rate plus 2.5% (so currently 6.5%). If you are due a VAT repayment which HMRC do not pay on time you will receive repayment interest at the Bank of England base rate minus 1% (currently 3%).

This is a much fairer system than the old VAT default surcharges which could see traders hit with penalties of up to 15% of the late paid VAT for paying just one day late. There is no carry forward of default periods or surcharge levels from the old VAT penalty system into the new late-payment regime.

RECOGNISING CAPITAL LOSSES

The annual capital gains exemption (currently £12,300) may cover most of the capital gains that you make on your share portfolio.

However that exemption will be cut to £6,000 on 6 April 2023 and £3,000 in April 2024.

We can help you to make the necessary capital loss claims

If you are planning to make large capital gains in the future you may be able to supplement your annual capital gains exemption with capital losses brought forward from earlier tax years.

To do this you must first claim the capital loss, either on your tax return for the year in which the loss arose or as a separate claim made within four years of the end of the tax year of the loss. For example any capital losses made in 2018-19 must be claimed by 5 April 2023.

You may have potential capital losses from holding cryptocurrencies following the crypto market crash in November 2022 or you may hold shares which now have little or no value. If those assets still exist you may wish to make a negligible value claim to create a capital loss in this tax year. Where the company in which you hold shares has already been dissolved a capital loss will have crystallised in respect of those shares on dissolution.

We can help you to make the necessary capital loss claims.

MIND THE NIC GAP

Do you know whether your NIC record is complete and correct?

Do you know whether your national insurance contributions (NIC) record is complete and correct?

You can check the NIC record over your entire working life on your online personal tax account (www.gov.uk/personal-tax-account). This will also provide an estimate of the state retirement pension you should expect to receive when you retire.

You need 35 complete years of NIC (payments or credits) in order to receive the maximum state retirement pension and at least ten complete NIC years to receive any state retirement pension.

A gap in your NIC record can occur if you were out of work, studying or caring for children. In most cases this period should be covered by NI credits which are given automatically if you claim universal credit or similar benefits.

A parent who stays at home with young children should receive NI credits if they claimed child benefit for the child. However in some circumstances (eg fostering a child) you need to apply for NI credits.

If you find a gap in your NIC record, investigate why this may have occurred. It is not uncommon for HMRC to miss NI credits that were due.

You can normally pay voluntary contributions to fill in the missing weeks to make a tax year complete for NIC but only for periods up to six years ago. However HMRC are currently allowing women born after 5 April 1953 and men born after 5 April 1951 to complete gaps in their NIC record right back to 6 April 2006. This opportunity to plug old NIC gaps closes on 5 April 2023 so do not delay!