

# CLIENT NEWSLETTER: May 2020

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## PAYROLL

The **Coronavirus Job Retention Scheme (CJRS)** opened for business on 20 April 2020. Several changes have been made since it was announced in March 2020.

- the scheme has been extended by a further month. Instead of running for three months to 31 May 2020, it will run for at least one more month to 30 June 2020, and may be further extended
- the cut-off date has been brought forward from 28 February 2020 to 19 March 2020. That is the date on which someone had to be on the payroll to be eligible to be furloughed under CJRS
- the requirement to use an authentication code sent by post has been dropped.

Further details have been given of the conditions for **Coronavirus Job Retention Scheme (CJRS)**.

The employee must:

- have been instructed to cease all work for at least 21 days
- have been notified by the employer in writing (which includes email)
- have accepted in writing.

Where an employee has had fluctuating earnings, the 80% is calculated as the average earned in the 2019/20 tax year.

The amount of pay that an employer must report under real time information (RTI) for the PAYE system is the actual amount paid to an employee. Additional guidance has been produced.

A **director** who is paid under PAYE may be paid under CJRS. The director must do no work while furloughed, apart from meeting statutory duties, such as filing accounts and returns.

An employee who is given a **payment in lieu of notice** while being furloughed is entitled to payment based on his or her normal full wages, according to a leading employment lawyer.

An employee is entitled to **holiday leave** while being furloughed. This must be paid at 100% of normal wages.

Furloughed employees must still be re-enrolled for **automatic enrolment** for workplace pensions.

Details have now been published on the **statutory sick pay (SSP)** repayment scheme for absences related to coronavirus. Recovery is by a new statutory sick pay recovery scheme (SSPRS) and not by deductions from PAYE payments. Under SSPRS, HMRC makes a direct payment to employer. Note this only applies to coronavirus-related absences. SSPRS applies from the first day of absence from 13 March 2020, and from the fourth day before 13 March 2020.

There are no changes to the main **personal allowances** for income tax. This means that tax codes issued in February 2020 may be used for the 2020/21 tax year.

From 6 April 2020, the tax-free allowance for an employee **working from home** increases from £4 a week to £6. There is no legal right to such a payment. An employee may claim actual costs if higher but needs to be able to justify such a claim to HMRC.

The **employment allowance** increases from £3,000 to £4,000 from 6 April 2020. This is subtracted from employer's national insurance by eligible employers. From 6 April 2020, this may not be claimed by an employer who paid more than £100,000 national insurance in the 2019/20 tax year.

Claims for **statutory maternity pay** and other statutory payments (but not statutory sick pay) has their average weekly earnings calculated on their normal pay and not their furloughed pay.

From 6 April 2020, employees have a new right from day one to **statutory parental bereavement leave** should they have a child under 18 die, or a baby stillborn after 24 weeks of pregnancy. The leave is for one or two weeks. If the employee had worked for 26 weeks, he or she may be eligible for statutory parental bereavement pay. This follows the rules for statutory paternity pay. It is paid at the lower of £151.20 a week or 90% of average weekly earnings.

The **official rate of interest** for 2020/21 has reduced from 2.5% to 2.25%. This is used to calculate the taxable benefit of a beneficial loan or employee accommodation.

HMRC has given its view on what is meant by **significant personal use** in relation to such items as laptops and Internet facilities. This can affect whether such provisions count as a taxable benefit in kind.

HMRC has said that it will accept that a **company car** has been virtually handed back during the coronavirus outbreak if the employee has handed in the keys or fob. The employee then ceases to be liable for the company car benefit charge and for any fuel charge.

**Reservists** may be called up during the lockdown. A reservist is someone in civilian employment who has military training. We can explain the implications.

Employment limits in **Northern Ireland** are increased from 6 April 2020. The daily rate of guaranteed pay is £30, and the maximum week's pay for redundancy is £560.

An employer was unable to demonstrate to a tribunal that two of its three representatives had reimbursed the company for **private use** of car fuel or had replaced it. The third representative had kept a log which HMRC accepted.

A female employee of NatWest Bank has won record **compensation** of £4.7 million in April

2020 after she suffered severe depression and psychosis after the bank was found to have discriminated against her.

## *BUSINESS TAX*

From 11 March 2020, the lifetime limit for **entrepreneur's relief** reduces from £10 million to £1 million.

From 1 April 2020, a company is restricted on the amount of **capital loss** it may offset against capital gains. This is restricted to a maximum of £5 million plus half the balance of chargeable gains in the year in which the loss is offset.

## *PERSONAL TAX*

There are no changes to the main **personal allowances** for 2020/21. The main personal allowance remains at £12,500. There are small increases for blind person's allowance and for the married couple's allowance for taxpayers born before April 1935. There are changes to tax bands for Scotland.

The annual exemption for **capital gains tax** increases from £12,000 to £12,300 from 6 April 2020.

The tax-free allowance for **junior ISAs** and remaining child trust funds is £9,000.

A second relaxation has been made to the **statutory residence test**. Between 1 March 2020 and 1 June 2020, a count will not count as being in the UK for anyone in the UK working in connection with coronavirus.

From 6 April 2020, the 30-day limit for **short-term business visitors (STBVs)** increases to 60 days. STBVs are subject to UK income tax but there are special procedures for collecting it known as Appendix 8.

From 6 April 2020, a capital gain on a **residential property** must be reported within 30 days and not wait until the annual tax return. This generally does not apply to a main residence that qualifies for main residence relief unless the property comes within the scope of capital gains tax. This can happen if the property has more than half a hectare (about 1.2 acres) of grounds, or if a business was run there.

HMRC has said that it will not impose penalties for missing the 30-day deadline for reporting capital gains on **residential property** until August 2020.

A charity may keep the **Gift Aid** donation on tickets for cancelled events unless the donor asks for a refund. If the donor is happy for the charity to keep the ticket sales, the charity may keep the Gift Aid element. It is not necessary to refund the money and to ask the donor to re-donate it.

In two recent cases, a judge upheld penalties against taxpayers for failing to notify HMRC that they were liable for the **high income child benefit charge (HICBC)** though the amounts of the penalties were reduced. HICBC is an income tax charge that claws back child benefit when a parent or guardian earns more than £50,000 a year.

Failure to submit tax returns on time may not be sufficient to justify **deportation**, the Court of Appeal ruled. Although failure to comply with UK tax law can be sufficient “lack of integrity” to justify deportation, in this case the tax tribunal had found that the taxpayer had not been dishonest.

## *VALUE ADDED TAX*

VAT on electronic forms of **books** and other publications are zero-rated from 1 May 2020, brought forward from the previously announced date of 1 December 2020. There are exceptions for advertising material, audio and visual material, industrial drawings and similar, and where the supply is ancillary to other goods or services.

Between 1 May 2020 and 31 July 2020, a new category of **zero-rating** applies to personal protective equipment in connection with coronavirus.

HMRC was told by the Scottish Court of Sessions that it should adopt a flexible approach for **historic cases** in asking for evidence for documents from the 1970s and 1980s. Generally a business has four years to deal with a VAT adjustment. There is a limited exception for “Fleming claims” that can go back decades.

An opera company was not allowed to use the standard method of **partial exemption** as there was insufficient link between selling ice cream and watching opera. The tribunal rejected the claim that the better the opera was, the more ice cream they sold. This case is distinguished from the Chester Zoo case where partial exemption was allowed because of the specific facts of that case.

A business has reasonable excuse for late payment of VAT when it was a victim of a **fraud** when its finance director ran a shadow ledger to siphon off funds.

Input VAT could not be claimed for an **awards ceremony** sponsored by a business as they were not directly attributable to the business. It was immaterial that VAT had been claimed for the ceremony in previous years.

## *NATIONAL INSURANCE*

The **earnings threshold** for class 1 national insurance increases to £9,500 a year from 6 April 2020, as part of the government’s plan to align it with the income tax personal allowance of £12,500.

From 6 April 2020, there is a new **class 1A** liability for termination payments above £30,000 and sporting testimonials above £100,000.

## *INHERITANCE TAX*

From 6 April 2020, the rate of **residence nil rate band** completes its four-year transition and increases to £175,000. This is added to the nil rate band of £325,000 when residential property or its proceeds passes from a parent or remoter ancestor.

From 14 April 2020, HMRC will accept a **printed signature** on inheritance tax returns, provided certain conditions are met. From the same date, HMRC will no longer accept cheques to pay inheritance tax.

## *STAMP TAXES*

A flat was held to be dwelling for stamp duty land tax purposes even though it had the same **cladding** as Grenfell Tower and could not be let until the cladding had been replaced. A property does not cease to be a dwelling because it does not meet current safety standards. While a serious defect can mean that premises cease to be a dwelling, in this case it was noted that the council had not served a prohibition or enforcement notice.

Another case has been heard on whether a **granny annexe** was a separate dwelling for stamp duty land tax purposes. It could be accessed by French windows without going through the main dwelling. It was linked to the main dwelling by a corridor in which a door could be fitted, though there was no evidence that one ever had been. It was held to be part of the main dwelling.

## *OTHER TAXES*

The higher rate of **landfill tax** in England increases from £91.35 a tonne to £94.14.

From 1 April 2020 there is no vehicle excise duty on purpose-built vehicles for **medical courier** charities.

A new **digital services tax** is introduced from 1 April 2020 at 2% of UK revenues of larger digital platforms.

Business premises are not occupied by a **charity** when it installs bluetooth equipment to help broadcast messages about local crime. The Court of Appeal held that this was not sufficient charitable purpose to avoid paying business rates.

A resident of **Bulgaria** (which is part of the EU) was liable to pay excise duty on a large amount of seized tobacco which the tribunal accepted was for personal use and so could

legally be imported without limit. The resident had not challenged the seizure within one month, and so lost the right to do so, and had to pay the excise duty.

HMRC has said that it operates a policy of imposing any **Customs duty penalty** within 12 months, in line with the time limit for assessing the duty itself. The statute does not impose a time limit for the penalty. This was revealed in a case where a penalty was served on a man who brought in alcohol and tobacco from Canary Islands which he thought were in the European Union when they are not.

A consignment of **solar panels** were held to be from China and not Malaysia. The decision was made on the basis of an experienced Customs officer who referred to weight and documentation. Panels from China are subject to additional duties known as anti-dumping duty and countervailing duty. Anti-dumping duty is charged when goods are sold at less than cost to kill off domestic production. Countervailing duty is charged when a foreign government has subsidised manufacture.

## *TAX ADMINISTRATION*

The deadline for reporting **expenses and benefits** for the 2019/20 tax year is 6 July 2020.

On 16 April 2020, HMRC suspended **enquiries** into tax so that it can concentrate on coronavirus-related work. Taxpayers have been requested not to ask HMRC for documents.

Where new legal proceedings and pre-action letters need to be sent, HMRC asked on 16 April 2020 that they be sent by email to either [newproceedings@hmrc.gov.uk](mailto:newproceedings@hmrc.gov.uk) or [preactionletters@hmrc.gov.uk](mailto:preactionletters@hmrc.gov.uk).

## *PENSIONS*

The **lifetime allowance** for pension contributions increases from £1,055,000 to £1,070,000 from April 2020. Contributions to a pension may qualify for income tax relief provided they are below both a lifetime allowance and an annual allowance.

The **annual allowances** for pension contributions are each increased by £90,000 from 6 April 2020. The threshold income limit increases from £110,000 to £200,000. The adjusted income limit increases from £150,000 to £240,000. Up to these limits, a taxpayer may generally pay claim tax relief up to £40,000 a year. This limit reduces by £1 for every £2 that taxable income exceeds either income limit.

A pension tax rule has been relaxed for workers aged between 50 and 55 who return to work in the **public sector** during the coronavirus outbreak.

## *WELFARE*

Individuals who opted out from receiving **child benefit** may wish to reconsider that decision. The high income child benefit charge (HICBC) is an income tax charge that claws back child benefit where a parent or guardian earns more than £50,000 a year. HICBC can be avoided by not claiming child benefit. Where the coronavirus means that income has fallen below £50,000, the taxpayer may wish to resume claiming child benefit.

During the lockdown a claim for **child benefit** may be made even if the birth has not been registered.

From 16 April 2020, it is possible to claim **pension credit** online.

A voucher scheme has been introduced for parents whose children would be receiving free **school meals**. The scheme provides £15 per week per child in the form of a voucher than can be redeemed at a participating supermarket. Most supermarkets are participating.

From 8 April 2020, the amount certain social security claimants may claim for **funeral expenses** increases from £700 (set in 2003) to £1,000.

Claimants of **employment and support allowance** may get a transitional allowance where they have migrated from old incapacity benefits. Those transitional allowances will continue to be paid after 5 April 2020.

**Scottish child payments** have been delayed and child disability payments have been deferred, the Scottish government said in April 2020. These are new benefits being introduced in Scotland. Child disability payments will replace personal independence payments for children.

## *ACCOUNTING*

The Institute of Chartered Accountants in England and Wales (ICAEW) has given guidance on **audit reports** in relation to coronavirus. These relate to such areas as lack of attendance at stock-taking, more material uncertainties, and whether a business is still a going concern.

The Financial Reporting Council has produced further guidance on the **production of accounts** and reports during the coronavirus outbreak. This relates to such areas maintaining effective controls, ensuring information is reliable and maintaining sufficient reserves.

The Institute of Chartered Accountants in England and Wales has produced guidance on how to conduct an **online general meeting**. Other bodies have also produced guidance.

## *BUSINESS FINANCE*

New **Bounce Back loans** are available for smaller businesses from 9am on 4 May 2020. These are intended for smaller businesses for whom the Coronavirus Business Interruption Loan Scheme (CBILS) is not appropriate.

The main difference is that the government guarantees 100% of the loan should the business become insolvent, as against 80% for CBILS. The government pays all interest and charges for the first 12 months of the loan.

The loan is for an amount of between £2,000 and £50,000, limited to 25% of annual turnover. Loans can be applied for by completing an online two-page form. Money should be in the bank within 24 hours.

Two changes have been made to **Coronavirus Business Interruption Loan Scheme**. Banks may not ask for a personal guarantee for loans up to £25,000. There are some administrative changes to speed up the procedure.

Separately seven banks have relaxed their conditions for **Coronavirus Business Interruption Loan Scheme** by saying they will not require business plans and forward-looking financial information.

Landlords may not issue a statutory notice for **rent arrears** nor start winding-up proceedings for rent periods between 1 March 2020 to 30 June 2020.

By April 2020, 25% of businesses had **stopped trading** because of coronavirus, and 41% have reduced staff. There are 1.2 million mortgages where payments have been suspended. Dividends have been suspended by about half of all listed companies including all major banks.

## *PERSONAL FINANCE*

The government has launched the **self-employment income support scheme** (SEISS) to provide a similar level of support to the self-employed as the furlough scheme provides for employees.

The main elements are:

- a single payment is made in June 2020
- the amount is three months of annual income, as defined
- annual income is the average of the last three years
- income is reduced by the £1,000 trading allowance where this has been

claimed

- more than one trade will be aggregated
- the maximum monthly figure is £2,500
- income must be no more than £50,000 a year and must be at least half the

taxpayer's income. These conditions must be met for either 2018/19 or for the three years from 2016/17 to 2018/19

• all sources of income must be included in this consideration, including property income, trading income, dividends, pensions and taxable social security

- income is NOT reduced by the personal allowance or any brought forward

losses

- the payment is taxable when received
- the payment can affect any claim for universal credit but only when received.

A taxpayer has the right to amend his or her tax return up to one year after submission.

Changes made after 26 March 2020 will not be considered.

It is a condition that the taxpayer has submitted a tax return for 2018/19 by 23 April 2020. It was due on 31 January 2020.

HMRC hopes to notify qualifying taxpayers in May 2020.

Some changes have been made to **banking provisions** during the lockdown. The escape scope varies between banks, but typically they include:

- mortgage and loan repayments may be paused for three months, but interest still accrues
- providing an overdraft buffer of £300
- increasing the contactless payment limit from £30 to £45 from 1 April 2020.

In addition, banks have postponed increasing their overdraft to 40%. This will remain at around 20%.

For an average mortgage repayment of £775 a month, pausing for three months will add £260 interest over the lifetime of the mortgage.

Many branches have reduced their opening hours.

## LAW

**Companies House** announced some relaxations in filing requirements on 16 April 2020. The changes are:

- the striking off process is paused to give companies more time to get their records in order
- appeals against late filing penalties will be considered more sympathetically
- a three-month extension for filing will be given automatically on request.

The government confirmed on 9 April 2020 that **shoppers** may buy anything that is sold in a supermarket or other shop allowed to remain open. There had been reports that shopping was restricted to essential items.

The government has relaxed some rules on **visas**, granting automatic extensions to some health and care workers, and extending the expiry date in some circumstances.

The Supreme Court gave two decisions on 1 April 2020 which restrict the scope of employer's **vicarious liability**. This is where an employer is legally liable for the acts of an employee in the course of his or her work.

In one case, Morrison's supermarket was not liable when a disgruntled employee posted payroll data on line. This was not in the course of his work but was a "frolic" of his own.

In the other case, Barclays Bank was not liable when the doctor it engaged to conduct medicals sexually abuse staff. The doctor was not an employee.

A person is not guilty of the tort of **inducing a breach of contract** if they honestly but mistakenly believed the contract was unenforceable, the Court of Appeal held. The case concerned a post-termination restrictive covenant in a contract of employment.

## *OTHER MATTERS*

Anneliese Dodds MP was appointed **Shadow Chancellor** on 6 April 2020.

The price of **oil** went negative on 20 April 2020. Brent crude, on which about two-thirds of the world's oil prices are based, fell to \$5.79 a barrel on 21 April 2020.