Bird Simpson

Client Briefing

Tel: 01382 227841 • www.birdsimpson.co.uk • admin@birdsimpson.co.uk

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Tax update – where are we now?

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Energy costs support revised

The revised energy price guarantee announced in October has capped electricity and gas prices for six months from 1 October 2022, but the government has now indicated that support from April 2023 will be more targeted.

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Domestic users

For households, the Energy Price Guarantee will reduce the unit cost of electricity and gas so that energy bills for an average usage household in Great Britain over this winter are around £700 lower than they would otherwise have been; reducing bills by roughly a third. It is the unit price that is capped, so the size of your actual bill will depend on your usage.

The Energy Price Guarantee comes in addition to the £400 discount to households under the Energy Bills Support Scheme which is being paid, in Great Britain, in six monthly instalments from October. Households in Northern Ireland will receive similar support. Both forms of support are given automatically through energy bills.

Non-domestic users

For non-domestic customers such as businesses and charities, the Energy Bill Relief Scheme will provide a discount on gas and electricity prices broadly equivalent to the Energy Price Guarantee for domestic users.

The scheme will similarly run from 1 October 2022 until 31 March 2023. It will apply to fixed contracts agreed on or after 1 December 2021, and also to variable tariffs and flexible contracts. It will be applied to bills automatically.

The government has rolled back from the initial two-year cap and is reviewing how it can help with energy bills from 1 April 2023. Chancellor Jeremy Hunt said on 17 October that support for domestic users will target "those in need", adding that "any support for businesses will be targeted to those most affected ... and better incentivise energy efficiency".

Energy prices are likely to rise significantly when the Energy Price Guarantee ends, so all energy users are advised to use the next five months to identify ways in which they can protect themselves against high energy prices.

One way of reducing costs is by installing energy saving materials (ESMs), such as wall, floor or loft insulation, and photovoltaic (solar) panels. Installing these in residential accommodation in England, Wales or Scotland is zero-rated for VAT.

> *"It is the unit price that is capped, so the size of your actual bill will depend on your usage.*

Accounting for residential property sales

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Disposals of UK residential property on which CGT is payable must be reported to HMRC via a UK property account since April 2020. Latest HMRC statistics show that although an improvement on 2020/21, approximately 20% of property returns were still late for 2021/22.

The reporting deadline throughout 2020/21 was 30 days from completion, which, together with a lack of publicity from HMRC, explains why some 28% of the 90,000 property returns for that year were filed late. The extension of the reporting deadline to 60 days from 27 October 2021 helped alleviate the problem for 2021/22, when 26,500 out of 137,000 reports were late.

Property return

A property return is still required in most cases even if a gain has been declared on the taxpayer's self-assessment tax return.

- The submission of a tax return does not remove the in-year reporting requirement, so late filing penalties continue to accrue.
- Taxpayers who declare a property disposal on their tax return – without submitting a property return – face the problem that they are then not able to report the disposal using an online property account. Instead they have to contact HMRC and request a paper version of the property return.

Penalties

The penalties imposed for the late filing of a property return are:

Lateness	Penalty
One day	£100
Over three months	£10 per day for up to 90 days
Over six months	Greater of £300 and 5% of the CGT due
Over 12 months	Greater of £300 and 5% of the CGT due

Taxpayers who are more than 12 months late filing a property return therefore face a penalty liability of at least £1,600.

Any taxpayers unaware of the in-year reporting requirement will generally be reliant on their conveyancing solicitor to enlighten them. Solicitors are, however, not tax experts. Please get in touch if you may be affected.

Tax update – where are we now?

After a September mini-Budget full of unfunded tax cuts, the replacement of one Chancellor with another who promptly reversed most of them to calm the financial markets and a new Prime Minister, what is the position now?

- *Income tax rates:* the basic rate of income tax (except Scottish income tax) will remain at 20%. This reverses the reduction to 19% from April 2024 put forward in the spring 2022 Budget. The additional rate of 45% (excluding Scottish income tax) on annual income over £150,000 remains in place.
- *National insurance contributions (NICs):* the removal from 6 November 2022 of the additional 1.25 percentage points added to all 2022/23 Class 1, Class 1A and Class 4 rates will go ahead.
- *Health and social care levy:* the 1.25% tax that was to replace the NIC increase in 2023/24 has been scrapped.
- *Dividends:* The 1.25 percentage points reduction in dividend tax rates due from 2023/24 will be scrapped. Dividend income will continue to be taxed at 8.75% (basic rate), 33.75% (higher rate) and 39.35% (additional rate).
- *Corporation tax:* the main rate, currently 19%, will rise to 25% from April 2023 for business profits of £250,000 and above, as originally announced in March 2021. The rate for profits of £50,000 or less will remain at 19% and there will be marginal relief on profits between £50,000 and £250,000.
- *Off-payroll working:* the current rules, also known as IR35, stay in place, so for public sector contracts and contracts with private sector businesses that are not 'small', the client remains responsible for categorising workers represented by an intermediary, such as a personal service company.
- *Annual investment allowance (AIA):* the current £1 million level of the AIA will be made permanent.

- *Seed enterprise investment scheme:* to help start-up businesses, from April 2023 the annual investor limit will double to £200,000 and companies will be able to raise up to £250,000 of SEIS investment, a £100,000 increase. In addition, the gross asset limit will be increased to £350,000 and the company age limit will rise from two to three years.
- *Company share option plan:* qualifying companies will be able to issue up to £60,000 of share options per employee, double the current limit, from April 2023.
- *Stamp duty land tax (SDLT):* from 23 September 2022, the 0% band threshold has been increased from £125,000 to £250,000. For first-time buyers, the 0% threshold is now £425,000 and the maximum value of property on which they can claim the relief is £625,000. These bands will continue. Any changes to Land and Buildings Transaction Tax in Scotland will be announced in the Scottish Budget on 15 December 2022.
- *Land Transaction Tax (LTT):* changes to the Welsh tax on land transactions took effect from 10 October 2022. The starting threshold for paying LTT increased from £180,000 to £225,000, with a new 6% band covering transactions from £225,001 to £400,000.

It is unclear whether the government will proceed with plans to introduce an unlimited number of investment zones that would offer businesses tax incentives on property, hiring staff and investment in equipment, and liberalised planning rules to allow accelerated building of new developments.

With the present political and economic volatility, little can be set in stone. Planning for the future must take this uncertainty into account, alongside rising interest rates, increasing energy costs and the effect of reduced spending power for many consumers.

News in brief...

Partnership return guidance

The return should not include entries such as 'per attached' (with information not easily identifiable), 'to follow', or 'per enclosed accounts'. A computer-generated version of the return must be identical to the official form; and don't forget to sign the return.

Advisory fuel rates

From 1 September, there are increases of 1p to 3p for petrol and diesel rates, with LPG rates unchanged except for a 1p uplift to the over 2,000cc rate. The fully electric rate is still 5p despite higher electricity costs.

Under 100 days to 31 January deadline

HMRC is encouraging taxpayers to complete their online self-assessment tax returns as early as possible before the usual January rush. Early completion will allow you to know what you owe and to budget for payments, or receive any repayments claimed more quickly. There is a range of payment options available and support for those who may need help setting up a payment plan.

Alternative ID checks

Some customers are being offered an alternative way to prove their identity to access HMRC's online services. Initially for iPhone users, the GOV.UK ID Check means the phone's camera can be used to confirm a match with a driving licence.

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You're not excused

Having a reasonable excuse can be a way to side-step a tax penalty. However, although an excuse might cover being a month or two late with your return or payment, a more significant delay means you are likely to have to face the consequences regardless of the initial reason.

A director recently lost an Upper Tribunal appeal on this very point. He submitted his self-assessment tax return for 2014/15 more than two years late, but argued he had a reasonable excuse against HMRC's penalty having suffered a series of distressing events. These included a violent carjacking, a car crash resulting in neck injuries, the death of a parent, and having to care for a grandchild.

The decision

The level of incapacity affecting the director during the period of delay was not so exceptional or unusual that he did not have the capability to understand and discharge his obligation to file a tax return.

Although some delay would have been understandable, a delay of over two years was unreasonable.

What is reasonable?

What might amount to a reasonable excuse for one person may not for another. HMRC's guidance states that pressure of work, lack of information and lack of a reminder from HMRC do not usually amount to a reasonable excuse.

- Having insufficient funds, or reliance on a third party do not normally count.
- Illness and domestic problems are unlikely to be considered unless really serious. HMRC expects suitable arrangements to be put in place if a person knows in advance they will be in hospital or convalescing.
- The illness of a partner or a close relative will only be accepted as an excuse if the situation takes up a great deal of time and resources.

The excuse must have existed on or before the date on which the obligation should have been met.

> *"HMRC's guidance states that pressure of work, lack of information and lack of a reminder do not usually amount to a reasonable excuse.*

Electric cars tax relief – charging ahead

Electric company cars reduce a company's carbon footprint and fuel costs, as well as bringing valuable tax advantages. Only fully electric cars qualify for the 100% first-year capital allowance, and they are also an ideal choice when it comes to salary sacrifice.

First-year allowance

The biggest issue facing any company wanting to upgrade its company car fleet is the long lead time before delivery. And with the 100% allowance set to expire on 31 March 2025 (although an extension is possible), fleet replacement needs to be planned well in advance. The allowances are only available when the obligation to pay becomes unconditional.

- Only new cars qualify for the 100% allowance, so buying second-hand to queue jump doesn't work.
- A car has to produce zero CO_2 emissions, so no hybrids.
- Sole traders and partners buying for their own use can also benefit from the 100% allowance.

A car is likely to qualify for the 18% writing down allowance if the qualifying conditions for the first year allowance are not met.

Capital allowances are not available if a car is leased; it needs to be either purchased outright, or financed through hire purchase or contract purchase.

Salary sacrifice

There are considerable advantages for employees too. Those with electric company cars face just a 2% benefit charge. Used with salary sacrifice, the employee saves tax and national insurance contributions (NICs) on the salary sacrificed and will only pay a small tax charge for the company car use. For example, for a £60,000 car the annual tax cost is £480 for a higher rate employee. Salary sacrifice also works well with hybrid cars that have a long electric range.

The employer also makes an overall NIC saving. Car leasing is an option when it comes to salary sacrifice, in which case the employer will simply deduct leasing costs when calculating profits.

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Start planning for accounting basis changes

Changes are coming for how self-employed individuals and partnerships calculate their taxable profits and return them to HMRC.

At present, the profits of a tax year are generally based on the profits of the accounting period ending in that tax year, with special rules for the opening and closing years of a business.

From the 2024/25 tax year, businesses will be taxed on the profits arising in that tax year, calculated by time-apportioning profits of the accounting periods that fall within the tax year. Businesses that cannot finalise the accounts needed for the second part of the tax year in time will have to file returns based on provisional figures and revise them once final figures are available. Businesses can avoid this complication by changing their accounting date to 31 March or 5 April – both dates are treated as aligned with the tax year so avoiding apportionment.

Under transitional rules, taxable profits for 2023/24 will be based on the period from the end of the 2022/23 basis period plus a transition component running from the end of this 12-month period up to 5 April 2024. Any unrelieved overlap profits – generally those that arose in the business's opening years – will be deducted. Should this calculation result in higher profits than for the normal 12 months, the transitional period additional profits can be spread over a period of five years.

The change runs alongside the implementation of Making Tax Digital for Income Tax (MTD). Businesses will have to use MTD-compatible software to keep digital accounting records, send quarterly digital reports to HMRC of receipts and expenses and provide a digital 'end of period statement' to finalise the year's taxable profit. MTD will generally start on 6 April 2024 for sole traders and from 6 April 2025 for general partnerships.

Bird Simpson & Co
144 Nethergate
Dundee
DD1 4EB

Tel 01382 227841
Fax 01382 202622
Email admin@birdsimpson.co.uk
Web www.birdsimpson.co.uk

Partners
Murray A C Dalgety BAcc CA
Neil S Young MA CA
Alison Wilson MA CA
Neil J Fleming CA
Ross Graham BAcc CA

Associate
Greg. H. Davidson B.Acc. ACCA

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