In this issue we look at

- Managing the loan account risk
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- Simon Buchan's VAT update
- New tax year changes

Editor's welcome

Hello and welcome to our Spring 2019 Employers' Update brought to you just before the Spring Budget Statement.

In this edition, Adrian looks at loans to directors and employees and whether they should always be returned on a P11D. We've got some tips to help you tidy up your employees' expenses ready for P11D reporting and advice about changes coming in from April for EU nationals working in the UK. Our guest writer, Simon Buchan has written about digital record keeping for VAT, the new reverse charge for the construction industry and claiming back employee expenses. And on page 4, we've squeezed in the new rates for tax, National Minimum Wage and workplace pensions, and information on collecting the new postgraduate loan, as well as a reminder about the new benefit calculation for car salary sacrifice schemes. It looks like 2019 is going to be an interesting year!

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Managing the loan account risk

Loans to directors and staff are one of HMRC's top five risks when they carry out a business risk assessment. If the business has made a loan in excess of £10,000 at any point in the tax year, HMRC expect to see a beneficial loan charge returned on a P11D and Class 1A NICs paid by the employer. However, this can be reduced or even eliminated if interest is paid on the loan at or above HMRC's official rate of interest.

HMRC are particularly keen on two things. Firstly, that upper ceiling. The loan account has to be day accurate to make sure it doesn't trip over and then dip under the £10,000 ceiling. Secondly, HMRC see a clear distinction between interest you have paid, which reduces the loan charge, and interest that has just been charged to the loan account, which does not reduce the charge.

HMRC also expect the director or employee to be under an obligation to pay interest and repay the loan. They will ask questions where the loan looks to be interest free or the obligation to pay interest looks retrospective.

So, if you have a director's loan, keep tabs on the balance. Draw up a short loan agreement obliging the employee or director to pay interest at a level at least equal to HMRC's official rate of interest, especially if the loan is going to be a large amount repayable over a number of years.

Tot up what is owed before the 5th of April each year. Charge and get the interest paid by then or next best, before your P11Ds are submitted, by the 6 July deadline.

For Corporation Tax, if the loan is not repaid within 9 months of your accounting period end date there is a 32.5% charge on the balance outstanding. The company can recover this charge, but only after the loan is repaid.

We have seen multiple loans, loans to family members or related

businesses, (even if it is a long overdue debtor on your sales ledger) get dragged into the beneficial loan rules. Loans written off can, in some circumstances be treated as deemed salary and payrolled for tax and NIC purposes.

The tax rules on employee and Director loans are complex, and the above is an overview. Your usual BHP contact will be happy to deal with any concerns you have.

For further information please contact Adrian Hulme
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The right to work in the UK, Brexit and the Settlement Scheme

Employers have had had to check that their employees have the right to work in the UK for over 10 years now and guidance can be found on the government's website at https://bit.ly/1qtUfVh. A helpful checklist, updated January 2019, can be seen at https://bit.ly/2CaPi3P

But what effect will Brexit have?

There will be no change to the rights and status of EU citizens currently living in the UK, until either the 30th June 2021, or 31st December 2020 if the UK leaves the EU without a deal.

EU citizens and their families will be able to apply to the EU Settlement Scheme to continue living in the UK after 30 June 2021, (31 December 2020). The EU Settlement Scheme will open fully by 30 March 2019 but applications can be made now, during the testing phase of the scheme. There is a charge of £65 for applicants aged 16+ and £32.50 for under 16's during the testing phase but this will be repaid after 30 March. There will be no fee if you apply after the 30 March.

Successful applicants will get either settled or pre-settled status. Applicants who have started living in the UK by 31 December 2020 and who have lived in the UK for a continuous 5 year period will usually get settled status which means that they may live and work in the UK for as long as they like.

EU citizens who do not have 5 years' continuous residence, will usually get 'pre-settled status' instead. They will be able to live and work in the UK for a further 5 years after getting this status but must apply again and get settled status if they want to stay in the UK for longer than that.

The Government has said that any EU citizen living in the UK by 29 March 2019 will be eligible to apply to the Settlement Scheme and secure their right to live and work in the UK.

Separate agreements have been reached with Norway, Iceland, Liechtenstein and Switzerland, and employees from those countries who want to continue living in the UK after 30 June 2021, should also apply for Settled Status through the EU Settlement Scheme.

For further information please contact Peter Dobson peter.dobson@bhp.co.uk

Expensive expenses

Should HMRC pop round for a chat, issues with employee expenses can turn into a very expensive tax problem. As the P11D season will soon be here, it's probably a good time to carry out a bit of an expenses spring clean. Here are a few of the top items to keep an eye out for.

Private fuel is one of HMRC's big targets. HMRC will trawl through your records in the hunt for private fuel to enable them to charge an eye-watering benefit in kind.

Sometimes an employee will pay for something themselves. This can be a problem if there is no way of telling what the exact business cost is, especially if the invoice is in the employee's name, as it looks to HMRC like the business has settled or reimbursed a private bill.

Employee awards for great work, no matter how small, are classed as a benefit in kind, and giving cash to an employee to treat themselves, is liable to tax and NICs as additional pay.

There are specific tax rules about what qualifies as a tax free meal, such as one connected with training, business travel or business entertaining. The tax rules differentiate between meals onsite and offsite. Working lunches at the office, and similar meals, provided all employees can benefit from a free meal at some point, are tax free. Move that meeting across the road and the expense becomes taxable. Don't forget team nights out, curry clubs and any variations on that theme, as they may be taxable employee entertaining.

So, as a plan, we suggest:

- Check that all mileage logs and claims are up to date. Any private fuel should be repaid by the 6 July.
- Look over the expense claims and credit card invoices, double checking for private expenses, and adding more narrative where it could help later.
- If you find some private expenditure, you can use a PAYE Settlement Agreement to pick up the tax and NIC on certain employee benefits. The agreement can take a couple of weeks to arrange and has to be in place by 6 July.

If you have concerns about expenses, entertaining, mileage, company vehicles or benefits in kind, beyond our brief spring clean checklist, your usual BHP contact will be able to help.

Simon Buchan's VAT update

Simon Buchan, head of our VAT services department, advises on VAT on employment expenses and other topical issues for businesses.

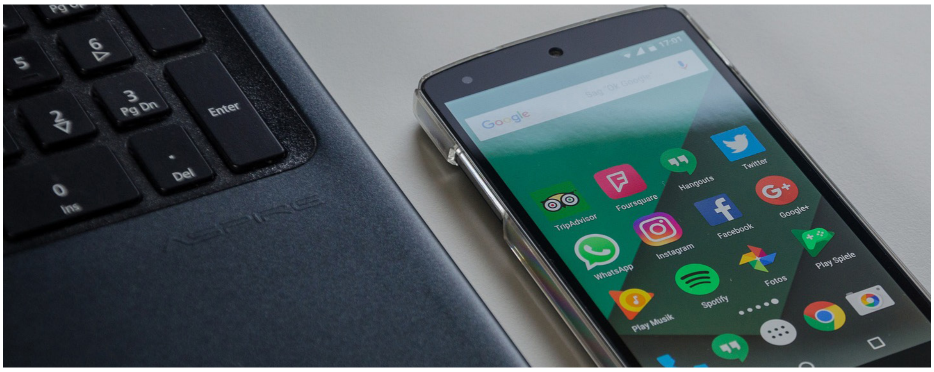
Can VAT be claimed back on employment expenses?

In short, the answer is yes, provided, the expense is a genuine cost of the business.

The most common expenses that can be claimed are motoring expenses, telephone, hotels, subsistence and parking provided that the business bears the cost. For expenses such as telephone, HMRC will expect to see an apportionment to reflect any private use if they pay the full cost of the expense.

There are different ways to reclaim VAT on fuel costs for employees. The simplest is likely to be to recover the VAT on the purchase and pay a VAT scale charge to account for any private use. However, if the scale charge is more than the cost of the fuel, you can choose not to recover the VAT at all. If most of your mileage is for business, then provided you keep very detailed records of your business journeys, you can claim the business proportion of the VAT paid on the cost of fuel. If this option is chosen, you should expect HMRC to check your records. Alternatively, you can pay your employees a mileage rate for business journeys. For company cars this can be the Advisory Fuel Rate, (AFR), between 8p and 22p per mile, (4p for fully electric cars) and for privately owned cars, it can be the Authorised Mileage Allowance Payment, (AMAP) at 45p/25p per mile. You can claim VAT back on the AFR's but you will have to make an adjustment for the AMAP's because they include other costs such as depreciation and insurance.

HMRC take a very puritan view to expenses that they regard as business entertainment and will only allow VAT to be reclaimed in very limited circumstances.



Making Tax Digital (or keeping digital records)

From 1 April this year most VAT registered businesses must keep their records on digital software that is also capable of compiling VAT returns and submitting the returns directly to HMRC. Businesses must first register for MTD online before they can file a VAT return. Registering involves providing HMRC with various company details, supplying an email address which can be verified through an acceptance link, then waiting up to 72 hours to confirm registration.

Businesses can continue to use spreadsheets to keep their records, but they will only comply with MTD if they are used with bridging software that can pick up the spreadsheet data, connect to Revenue systems and submit the return. BHP Prosper, uses Xero which keeps digital records, submits VAT returns and accesses VAT payments and liabilities. You can also use Receipts Bank with Xero, which is great for recording and analysing purchases - you use your mobile to photo a receipt or purchase invoice and Xero analyses it for you. There are of course other software products and a Revenue – approved list can be seen at https://bit.ly/2IsxUsC

Digital record-keeping is being rolled out to all other taxes, with the next wave expected from April 2020.

Reverse charge for the Construction Industry Scheme from 1 October 2019

The new reverse charge applies for businesses that supply construction industry services, (including the supply of materials) to other construction businesses. Suppliers of the service must issue an invoice without VAT and state that the service is subject to the domestic reverse charge. Recipients will account for and pay over the VAT for that supply to HMRC and claim it back on their VAT return, instead of paying it to the supplier on their invoice as before. The reverse charge will not apply to the end user in the chain.

This means that if there is a reverse charge element in a supply chain then the whole supply chain will be subject to the domestic reverse charge.

Businesses will have to adapt their record-keeping systems and carry out regular checks to make sure that supplies and purchases are correctly treated. There are also likely to be cashflow issues for businesses that have used the VAT collected from their customers as working capital, before paying it over to HMRC.

Trading with EU – what happens if there is no deal?

Currently, businesses need an Economic Operator Registration and Identification number, (EORI) number to trade goods with countries outside the EU. If the UK leaves the EU without a deal, businesses will need an EORI number to continue trading with the EU after 29 March 2019. It can take up to 3 days to get so the message is to apply now. https://bit.ly/2FWv16h

For further information please contact Simon Buchan simon.buchan@bhp.co.uk

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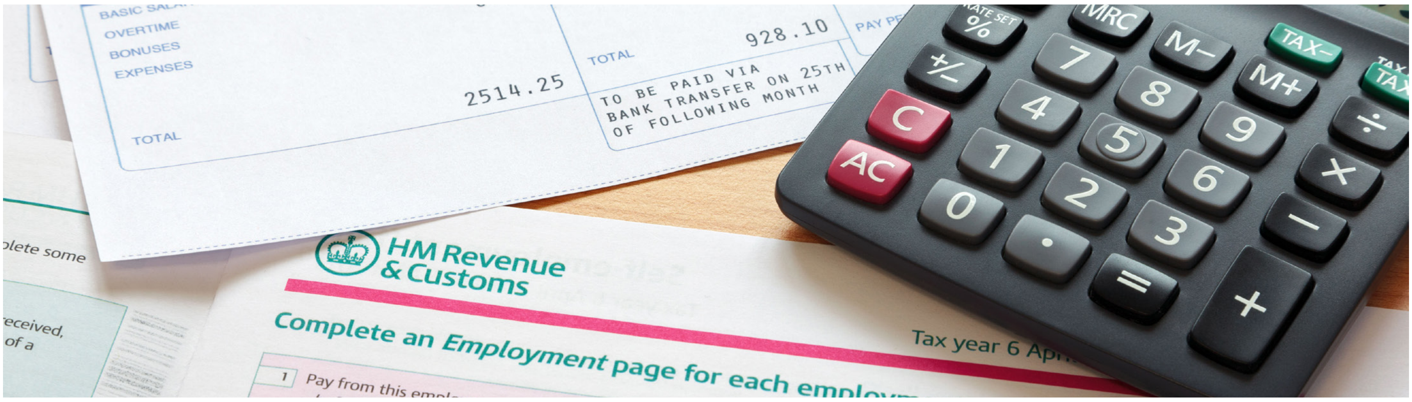
New tax year changes



National taxes – from 6 April 2019

The Personal Allowance will be set at £12,500 for England, Northern Ireland, Scotland and Wales.

Scottish tax codes will be pre-fixed with the letter 'S' and Welsh tax codes with the letter 'C'.

Tax rates for England, Northern Ireland and Wales are

- 20% 1 – 37,500
- 40% 37,501 – 150,000
- 45% over 150,000

Tax rates for Scotland are

- 19% 1 – 2,049
- 20% 2,050 – 12,444
- 21% 12,445 – 30,930
- 41% 30,931 – 150,000
- 46% over 150,000

National Minimum Wage – changes from 1 April 2019

Apprentice	Under 18	18 to 20	21 to 24	25 and over
£3.90	£4.35	£6.15	£7.70	£8.21

Accommodation offset £7.55 per day

Payslip changes - from 6 April 2019

There are two changes that are coming in from April this year. The first change affects payments to workers, who will now be entitled to a payslip. Currently it is only employees who have this right. Guidance on who is a worker can be found at https://bit.ly/2cYWqRj

The next change applies to employees and workers whose pay changes according to the number of hours worked. From April, the number of hours worked must be shown on their payslips. This will help workers to check that they are being paid at least the National Minimum Wage rate. Salaried staff will not be affected unless they are paid for overtime worked, in which case, it is only the overtime hours that must be shown.

Both changes apply to payslips covering pay periods which begin on or after 6 April 2019.

Increase in workplace pension rates – from 6 April 2019

The auto enrolment minimum is currently 5% of qualifying earnings of which at least 2% must be paid by the employer. In April 2019 this rises again to 8% of qualifying earnings of which at least 3% must be paid by the employer. The earnings threshold has been frozen at £10,000 for 2019/20.

Postgraduate loans – from 6 April 2019

There is a new starter checklist to use from 6 April 2019 which includes a section for the collection of postgraduate loans, (PGL). As with student loans, employers will be sent a notice to start and stop deductions. PGL's may be collected at the same time as other student loans.

https://bit.ly/2SHqomG

Increase to car salary sacrifice benefit calculation – from 6 April 2019

Currently, where an employee has a company car through a salary sacrifice scheme, new benefit rules introduced from April 2017 mean that the P11D value will be the higher of the normal company car valuation and the amount of salary given up to pay for the car.

From April, there is a further change to the valuation calculation. The comparison is now between the total amount the employee is sacrificing for the whole car package and the normal company car valuation.