Safehands Accounting Ltd

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financial UPDATE

Pensions flexibility: Changes on the horizon

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New rules for taxing LLP members

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Some members of limited liability partnerships (LLPs) are in danger of being taxed as if they were employed rather than self-employed under new rules that came into force on 6 April 2014.

From the tax year 2014/15 onwards, an LLP member will be taxed as an employee if they meet all the following conditions:

A. At least 80% of the total amount the LLP pays the member for their services is a 'disguised salary'. This will be the case where the individual is paid a fixed level of remuneration or if the amount varies but it is not linked to the profits and losses of the LLP.

B. The member does not have significant influence over the management and affairs of the whole LLP.

C. The member's contribution of capital to the LLP is less than 25% of the disguised salary for the tax year.

An LLP member who meets all these conditions will now be treated as an employee for tax under PAYE. Furthermore, both the member and the LLP as an employer will have to pay class 1 national insurance contributions (NICs) rather than the overall much lower level of self-employed NICs.

To prevent their being treated as employees, members of LLPs will need to establish that they do not meet at least one these conditions. One way to achieve this would be to make sure that at least 25% of their earnings remains within the LLP. So individuals who were LLP members at 6 April 2014 have three months (i.e. by 6 July 2014) to provide sufficient capital to ensure that condition C does not apply. In many cases, the additional capital should be available in the form of bank loans.

The new rules for LLPs were part of a wider set of provisions covering the taxation of partnerships. Another set of rules was aimed at preventing the allocation of profits in mixed partnerships to corporate partners in order to take advantage of the generally lower rates of tax that apply to companies.

PAYE reporting – year two of Real Time Information

If you have more than nine employees but fewer than 50, you should have started real time PAYE reporting from 6 April.

The HM Revenue & Customs (HMRC) relaxation for employers of this size has now ended. New employers with nine or fewer employees must also start real time reporting.

Under Real Time Information reporting – which HMRC calls RTI – employers have to send details to HMRC every time they pay an employee at the time they pay them. They must also use payroll software to send this information to HMRC electronically as part of their routine payroll process.

Existing employers with nine or fewer employees will not now have to start real time reporting until April 2016. They can continue to submit information to HMRC just once by the end of each tax month, even if employees are paid weekly or more frequently. New businesses cannot make use of this relaxation. These smaller employers can also use HMRC's basic PAYE tools product rather than running a full payroll package. If already being used, the software should automatically update itself in readiness for 2014/15.

For other employers, 2013/14 was the first year of real time PAYE reporting. They should have made the final submission for that year by 5 April. This could have been 19 April if they were sending an employer payment summary. However, employers have had until 19 May to submit an earlier year update to avoid a late filing penalty. The penalty is £100 per 50 employees for every late month. The penalties can therefore rapidly add up. Employers must provide employees with form P60 by 31 May, and they have until 6 July to submit the forms for taxable benefit, with copies given to employees. Payroll software should deal with most of this.

Getting to understand the penalties can be quite daunting, but it is a good idea to know how much leeway you have before they apply.

Late payment: You are allowed to be late with one monthly or quarterly payment without incurring a penalty. Company owner-managers may have just one year-end payment. But a second late payment will mean a penalty of 1% of the tax due, with the percentage increasing for each subsequent late payment during 2014/15. Harsher penalties apply if you are more than six months late. For 2014/15, HMRC will continue to issue penalties manually, as the introduction of the automatic in-year regime has been put on hold until April 2015. However, HMRC has gone ahead with the introduction of in-year interest, so any late payment will also attract daily interest.

Late filing: The introduction of late filing penalties has been postponed until 6 October this year, giving some time to adapt to anyone who can no longer make use of the reporting relaxation. After 6 October, you will not be penalised for your first late submission. Penalties are then applied on a monthly basis, and any subsequent late submission during a month will mean a penalty. This is bad news for weekly filers, although there will be just one penalty even if several weekly submissions are late during any month. Penalties range from £100 to £400 depending on the number of employees, and there will a harsher penalty for employers who are three months late.

Inaccurate filing: Incorrect submissions could attract a penalty if you do not take reasonable care.

If you file late then you will probably also pay late, and will therefore be penalised twice for what is essential the same thing. There is now more reason than ever to make sure you have adequate cover if your payroll personnel are ever absent.

Company cars – advisory fuel rates from 1 March 2014

The following rates apply to all journeys from 1 March 2014 until further notice. Hybrid cars are treated as either petrol or diesel cars in this context.

Engine size	Petrol	Diesel	LPG
1,400cc or less	14	12	9
1,401cc to 1,600cc	16	12	11
1,601cc to 2,000cc	16	14	11
Over 2,000cc	24	17	17

> The new rules will allow a pension fund to be treated in the same way as any other investment

Pension flexibility on the horizon

The Budget introduced some major changes to the ways in which people can access their pension benefits in retirement.

The Chancellor's proposals focus on money purchase pension arrangements, sometimes called defined contribution (DC) pensions, which allow you to build up a fund of money that you use to provide a retirement income and a tax-free lump sum. Benefits from defined benefit pension schemes (where the benefits are directly linked to the employee's earnings) are generally not directly affected by the Budget reforms.

Under the pre-Budget 2014 rules for drawing retirement benefits, from age 55:

- You could draw up to 25% of the fund free of tax as a lump sum.
- The balance had to be used to provide an income under a variety of options, of which the main ones were:
  - **Buy an annuity** Annuities normally guarantee an income throughout life.
  - **Choose capped drawdown** This allowed withdrawals directly from the pension fund, but they were subject to maximum amounts that were subject to review.
  - **Select flexible drawdown** This is effectively drawdown without any annual limits or compulsory reviews, but it was only available to individuals with at least £20,000 a year of secure (state or occupational scheme or pension annuity) pension income.

Finance Bill 2014: The interim changes

The pension changes are being introduced in two main steps. The Finance Bill currently going through parliament includes a range of pension measures, most of which are interim provisions pending the planned changes from April 2015:

Capped drawdown The limit for capped drawdown increased from 120% to 150% of the broadly equivalent market annuity rate for drawdown years starting on or after 27 March 2014. So, for example if you are 65, the maximum capped drawdown as at May 2014 would be 8.85% of the fund.

Flexible drawdown From 27 March 2014 the minimum secure income you need in order to take flexible drawdown was reduced from £20,000 to £12,000.

Future legislation and consultation

The later changes will take a little longer to introduce.

Pension flexibility

From 6 April 2015 all members of money purchase pensions will be able to draw money from their pensions as they see fit. The tax-free lump sum of up to 25% of the fund will remain, with the rest of the fund taxable as income. The change means that capped drawdown will disappear and effectively flexible drawdown – with no minimum income requirement – will become available to everyone. Annuity sales are expected to plummet as a result.

In theory, the flexibility will allow a pension fund to be treated in the same way as any other investment: you will be able to take withdrawal whenever you want and you will be able to take part of the fund or all of it. However, in practice, the tax treatment will discourage the extraction of large sums in a single year.

Death benefits

The tax position on death under the current rules is that any money remaining in a pension fund that is being used for drawdown is subject to a flat tax charge of 55%. The same tax rate also applies to any fund that is not in drawdown if the death occurs from age 75 onwards.

Normally there is no inheritance tax due, so with the right trust structure, £1,000 of pension fund can become £450 of cash for your chosen beneficiaries.

The Budget statement said that "…the government believes that a flat 55% charge will be too high in many cases in the future" and promised to "engage with stakeholders" in reviewing the rule.

New NS&I bonds for pensioners

From January 2015 people aged 65 and over will be able to buy the two new National Savings and Investments (NS&I) fixed rate pensioner bonds. The current expectation is that there will be a one-year bond paying a gross rate of 2.8% and a three-year bond paying 4.0%. The investment limit per bond will be £10,000, and so a couple should be able to invest £40,000. NS&I currently do not offer anything similar and the assumed rates are well above what is available elsewhere. The bonds will probably sell out quite quickly, so you might want to make sure that you have sufficient cash readily available for January.

All change for ISAs

Normally it is a good idea to make use of your individual savings account (ISA) allowance at the start of each tax year – and this year is no exception.

However, the 2014/15 ISA investment limits will be increased from 1 July 2014, so you will need to arrange to top up your investment at that time.

ISAs enjoy much the same privileges as pension funds – without the tax relief on inputs. The funds are free of UK tax on the rolling up income and capital gains. Like pensions, ISAs cannot benefit from reclaiming the tax credit on dividends on UK shares. Unlike pensions, the proceeds are 100% tax-free.

ISAs are being reformed, becoming a simpler product called the New ISA or NISA from 1 July. You do not have to worry about converting your existing ISAs you open before then, because all ISAs will automatically become NISAs. Currently, the overall investment limit is £11,880, of which £5,940 can be invested into a cash ISA.

Once NISAs are introduced, you will be able to invest up to £15,000 a year, and this limit will be completely flexible. It will therefore be possible to put the whole £15,000 into a cash NISA or into a stocks and shares NISA or any combination you wish - such as £10,000 in cash and £5,000 in stocks and shares.

On cash ISAs, the best return currently available is about 3%, and that requires you to tie up your cash for five years. Even for someone paying the additional rate, the tax saving is only £80 in the first year. With the £15,000 limit the saving is just over £200, but the tax benefit should grow to be really impressive after a few years of maximum savings - especially if interest rates improve. For 16 to 18 year olds, the £15,000 limit makes quite a difference, because they are not allowed to make use of the stocks and shares component.

The stocks and shares component will also benefit from several changes. Currently, if you hold cash pending future investment, any interest you earn in the ISA is subject to a 20% tax charge. This tax charge will cease from 1 July 2014 and there is therefore no longer any tax charge if you turn your ISA stocks and shares investments into cash.

AIM shares have been permitted since last August (a change that at the time did not receive much attention). Some AIM shares qualify as business assets for inheritance tax purposes. So if you hold them for at least two years, they should be free of this tax. From 1 July it will also be possible to invest in short-dated securities through an ISA because the five-year to maturity requirement has been abolished.

The 2014/15 junior ISA investment limit for children under 16 will also increase from £3,840 to £4,000 from 1 July. Many families are currently locked into poorly performing child trust funds, but from April 2015 it should be possible for them to transfer the funds into junior ISAs, which generally pay higher rates of interest and may suffer lower charges.

> “ISAs are being reformed, becoming a simpler product called the New ISA or NISA from 1 July”

£2,000 NIC cut for employers

Smaller employers should especially welcome the new Employment Allowance that was introduced from 6 April. It has the effect of reducing the amount of employer class 1 national insurance contributions (NICs) each employer pays to HM Revenue & Customs (HMRC) by up to £2,000 each tax year.

You can claim the Employment Allowance if you are a business or charity (including Community Amateur Sports Clubs) that pays employer class 1 NICs on your employees' or directors' earnings.

If your company belongs to a group or your charity is part of a charities structure, only one company or charity (of your choice) can claim the allowance. You cannot claim the Employment Allowance if you employ someone for personal, household or domestic work, such as a nanny, gardener or au pair. Public organisations like local authorities also cannot claim the allowance.

You can only claim the £2,000 Employment Allowance against one PAYE scheme - even if your organisation runs multiple schemes.

The amount of allowance you can claim for each payment period must be the same as your employer class 1 NICs liability for the same period – subject to the £2,000 Employment Allowance annual maximum. If you use up your full £2,000 Employment Allowance before the end of the tax year, you must pay any remaining employer class 1 NICs liability to HMRC.

The employment allowance, was introduced with the aim of encouraging employment. For 2014/15 it should cover your NICs if you employ four adult full-time workers (or eleven 18-20 year-olds) at the national minimum wage.

If you are the owner-manager of your company and withdraw the profits mainly in the form of dividends, the allowance may be of little or no benefit unless you have employees or you decide to pay yourself a salary or bonus of more than the personal allowance of £10,000. For 2014/15, a salary of £22,449 or more would allow you to qualify for the full allowance without employing anyone else.

But remember that although you can reduce your NICs by £2,000, you will lose the tax relief you would have received on those NICs. For a company this cuts the value of the allowance by between 20% and 21.25% depending on the level of profits. For sole traders and partnerships, the tax position is more complicated and the tax loss could be higher.

Claiming the allowance is quite straightforward, and if you run your own payroll it should be as simple as confirming you qualify when first running the payroll for 2014/15. If the software does not support a claim, you can use HMRC's Basic PAYE Tools. The allowance is deducted as your NICs arise; so if the monthly employer's NICs are £500, there should be nothing to pay until August.

For 2014/15 the employer and employee NIC thresholds are now aligned at £153 a week. This makes it a little easier if you are setting a part-timer's salary below the level where tax or NICs are payable. Looking ahead, from 6 April 2015 you will not have to pay any NICs for employees under the age of 21 who earn less than the upper earnings limit (currently £805 a week) - something to consider when planning recruitment.

"You can only claim the £2,000 Employer Allowance against one PAYE scheme – even if your organisation runs multiple schemes"

CGT relief cut for multiple homeowners

If you have more than one home, you should be aware that the value of a useful capital gains tax (CGT) relief has just been cut.

Final period relief used to be exempt from CGT for the last 36 months of ownership. Now the exemption only applies for the last 18 months. The change applies where contracts have been exchanged on the property in question after 6 April 2014.

The change should not present a problem if you only have one property and continue to live there, but it will make a difference if you buy a new property before selling the old one.

Your main home is exempt from CGT, but only one such property qualifies. Therefore if your ownership of two or more properties overlaps, you can choose which one will qualify for the main residence exemption. Of course, to qualify as your main home you must live in the property, so properties that have always been rented out are fully taxable. A problem can arise when you get married or enter into a civil partnership because a couple can only have one exempt property between them.

The difference that the change will make will depend on the amount of your gain when you sell your old home and also how long you owned it.

There is, however, one situation where final period relief remains at 36 months, and this is for people moving into care.

Tax calendar 2014

Every month

1 Annual corporation tax due for companies with year ending nine months and a day previously, e.g. tax due 1 February 2014 for year ending 30 April 2013.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

If the date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

May 2014

31 Last day to issue 2013/14 P60s to employees.

July 2014

1 New ISA investment limit £15,000. Junior ISA and Child Trust Fund limit increased to £4,000.

5 Last date to agree a 2013/14 PAYE Settlement Agreement (PSA) with HMRC.

6 Deadline for employers to make returns of expenses and benefits (forms P11D, P9D and P11D(b)) for 2013/14 to HMRC and provide copies to employees.

10 Deadline to submit employee share scheme annual returns (including Form 42).

14 Due date for CT61 return and CT payment for quarter to 30 June 2014.

31 Confirm tax credit claims for 2013/14 and renewal for 2014/15.

Due date for second self-assessment payment on account for 2013/14.

August 2014

1 Penalty of 5% of the tax due or £300, whichever is the greater, where the 2012/13 return has not been filed.

2 Submit employer forms P46 (car) for quarter to 5 July 2014.

3 Second 5% penalty imposed on 2012/13 tax still unpaid on 2 August.

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