Safehands Accounting Ltd

Spring 2016

financial UPDATE

Incorporation of buy-to-let: pros and cons

In this issue:

PAYE: a warning and an opportunity
Scottish tax residence rules
A ten mile distinction
End of permanent non-domicile status

Contents

PAYE: a warning and an opportunity 3

Payrolling is an increasingly popular way for employers to pay the tax due on benefits for employers.

©iStock/Johnny Greig

Incorporation of buy-to-let: pros and cons 4-5

Many buy-to-let landlords are facing extra costs and some lettings could be unprofitable. How can some of these costs be mitigated?

©iStock/Tupungato

Scottish tax residence rules 6

People in Scotland will start to pay some income tax to the Scottish government in 2016, which could result in them paying a different amount from other UK residents.

©iStock/thehague

A ten mile distinction 7

The latest update to HM Revenue & Customs' advisory fuel rates sees reductions to several petrol and LPG rates, which is good for business travel. The question is, which journeys count as business mileage?

©iStock/cveltri

End of permanent non-domicile status 8

Permanent non-domicile status for tax will come to an end from 6 April 2017, so you may need to plan ahead.

Cover image: ©iStock/wwing

This newsletter is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication. The newsletter represents our understanding of law and HM Revenue & Customs practice. © Copyright 5 January 2016. All rights reserved.

©iStoc/Pamela Moore

Top up your income

Pensioners who will miss out when the new state pension is introduced have just been given the chance to top up their pension entitlement by up to £25 a week.

Although the return on offer appears to be three times the rate currently available from a typical savings account, the top-up decision is not straightforward. The scheme will be of particular interest to women and the self-employed who may have little, or no, additional state pension entitlement.

Do you qualify? Those who reach state pension age before the new state pension is introduced from 6 April 2016 will qualify – so men qualify if they were born before 6 April 1951 and women qualify if they were born before 6 April 1953.

How and by when? You need to make a one-off lump sum class 3A voluntary national insurance contribution (NIC) by 5 April 2017, and you can apply online or over the phone.

How much does it cost? This depends on your age when you make the payment. Rates are gender neutral. For example, the full £25 a week – £1,300 a year – costs £22,250 for a 65 year-old, but only £16,850 for someone ten years older. It may therefore make sense to wait until your next birthday.

What about other voluntary contributions? If you are able to make class 3 NICs to fill a gap in your contribution record, then this is likely to be more beneficial.

Can you get access to the funds? Once you have made the payment you will no longer have access to the capital you invested.

Is it inheritable? In most cases, a surviving spouse or civil partner will inherit between 50% and 100% (depending on your date of birth) of the pension following your death. Children or other people cannot inherit the benefit.

Other advantages and disadvantages? The top up pension is inflation proofed (although not quite to the extent of the normal state pension) and it is guaranteed for life. However, it is taxable and so not such a good deal if you are taxed at higher rates. The additional income could also impact on income-related benefits.

Is it a good deal? Ignoring tax and inflation proofing, a 65 year-old needs to live for 17 years to recover the contribution, and a few years more if tax is taken into account. So it's probably a good deal if you are in good health, not paying tax at higher rates and have a spouse or civil partner who will inherit when you die. It is not quite so good for single people, although women gain from a longer life expectancy.

Good advice is essential so please get in touch with us to discuss your options.

PAYE: a warning and an opportunity

Payrolling has become an increasingly popular way for employers to pay the tax due on benefits provided to employees.

The use of payrolling means that your employees will not find themselves in the tricky position of having to pay the tax on two or three years of benefit at the same time.

Normally, an employee's tax on their benefits is collected under PAYE by a reduction in their tax code. However, with the end of year reporting of most benefits, some tax will invariably end up being collected by way of an HM Revenue & Customs (HMRC) tax calculation (with the underpayment leading to a tax code reduction) or via the submission of a self-assessment tax return. This catch-up is where the large tax issue arises.

With payrolling, taxable benefits are put through your payroll on a current basis in the same way as cash earnings. The employee therefore pays the correct amount of tax when they receive the benefit. You, as an employer, will have less administration, and self-assessment will be simpler for those employees who need to complete a tax return. However, payrolling does not change the way in which you have to pay class 1A NIC on benefits – both payrolled and P11D reported – following the tax year end.

Until 5 April 2016, payrolling was allowed by HMRC on an informal basis, but be warned: on that date any existing informal arrangements will have to stop (except if you have previously been payrolling benefits in respect of living accommodation, beneficial loans, vouchers and credit cards. Then you will be able to continue to do so, and P11Ds will still be necessary).

In order to payroll benefits for 2016/17, you must register with HMRC by 5 April 2016 using the online Payrolling Benefits in Kind (PBIK) service. It will not be possible to register after the start of the tax year. Of course, you should ensure that your payroll software can payroll benefits before registering – HMRC's basic PAYE tools cannot. If you cannot use the PBIK service, then you will have to report the benefits on P11D forms.

With the informal basis of payrolling it was still necessary to include payrolled benefits on P11Ds. They were shown as 'made good' to avoid a double tax charge arising. If you use the PBIK service, then you will not have to report payrolled benefits on P11Ds.

If you have not previously payrolled benefits, the flexibility offered by the PBIK service gives you the opportunity to now do so. Except for benefits in respect of living accommodation, beneficial loans, vouchers and credit cards, all benefits, including company cars, can be payrolled. You can choose which benefits to include and any employee who does not wish their benefits to be payrolled can be excluded. The payrolling of company car benefits will avoid the need to complete P46 (car) forms.

Once you have registered to payroll a particular benefit with the PBIK service, that registration is automatically carried forward to future tax years. But once the tax year has started, you will have to continue to payroll that benefit for the whole year.

The exception mentioned earlier is that if you have previously been payrolling benefits in respect of living accommodation, beneficial loans, vouchers and credit cards, then you will be able to continue to do so. In this case, P11Ds will still be necessary. It is possible that the PBIK service may be used for these benefits from April 2017.

Given the 5 April deadline, please get in touch as soon as possible.

Incorporation of buy-to-let: pros and cons

Tax changes announced during 2015 will increase costs for many buy-to-let landlords and may make some lettings unprofitable. But there may be ways of mitigating some of these costs.

The summer 2015 Budget ushered in the removal of higher and additional rate income tax relief on the costs of buying residential property for letting, a change that will be phased in over four years starting in 2017/18. At present, loan interest is deducted from rental income, together with other costs of letting, and tax is charged on the resulting profit. This means that owners receive tax relief for the interest at their highest rate or rates of tax. For example, if rental income before interest is £30,000 and the owner pays interest of £20,000, the profit of £10,000 is currently subject to income tax. For a higher rate (40%) taxpayer that would result in tax of £4,000. From 2020/21 the same owner will pay tax of £8,000 – i.e. 40% of £30,000 less 20% basic rate tax relief on the £20,000 interest.

Owners of commercial property and furnished holiday lettings will still be able to get full tax relief for interest, so one way of avoiding the restriction will be to diversify into these types of properties. However it can be difficult to meet the qualifying conditions for furnished holiday lettings.

Holding properties in a company

Another possibility is to hold properties in a company. Companies will not be affected by the restriction on interest relief and moreover by 2020/21, the corporation tax rate will have fallen to 18%. A company with rental income of £30,000 paying interest of £20,000, as in the example above, will therefore pay tax of £1,800.

Against this benefit must be set some costs. There will be more tax to pay if income is drawn from the company, although from April 2016 every individual will have a tax-free dividend allowance of £5,000. Dividends that an individual receives above that amount will be taxed at 7.5% basic rate, 32.5% higher rate or 38.1% additional rate. Spreading ownership of the company's shares among family members, especially those who do not pay more than basic rate tax, will reduce the tax on distributions.

The 18% corporation tax rate will normally also apply to a company's profits on selling properties. Furthermore, companies benefit from an indexation allowance which reduces their

chargeable gains. However an individual who withdraws the profits will have to pay further tax, so the low corporation tax rate is most valuable if the profits end up being reinvested within the company.

A major downside to incorporation could be the capital gains tax (CGT) and stamp duty land tax (SDLT) charges on transferring properties to a company because these taxes will be based on the market value of the properties. A corporate structure is therefore likely to be most useful for new investment in residential property.

Another point to note is that the administrative burden is likely to be heavier where a company is used, and banks may charge a higher interest rate. Further tax liabilities will arise in the case of a company holding residential properties worth over £2 million.

The Autumn Statement 2015 included two further changes that will affect buy-to-let investors. From 2019 payment of CGT on residential property will be brought forward to 30 days after completion, and by 2020 most landlords will have to keep track of their tax affairs digitally and update HMRC at least quarterly. These changes seem unlikely to apply to companies. However the 3% added to SDLT rates on purchases of buy-to-let property will be imposed on both companies and individuals, though the government is considering some exemptions.

If you are thinking of investing in property, do consult us first because there are many factors to consider.

Getting to grips with working time regulations

Employers with workers, such as sales representatives, who do not have a fixed office, need to be very careful to ensure that they are complying with working time regulations. A recent ruling by the European Court of Justice means that the time a worker spends travelling between home and the day's first appointment, and then back from the day's final appointment, should count as working time. The basic rule is that a worker must not work more than 48 hours a week on average. However, the ruling does not change entitlement to the national minimum wage because this is purely a UK-based right.

Scottish tax residence rules

People living in Scotland will soon pay part of their income tax to the Scottish government, a move that could result in them paying a different rate of tax from other UK residents.

The main UK income tax rates for Scottish residents will be reduced by 10p from 6 April 2016. The Scottish Parliament will then set the Scottish rate of income tax to be paid on top of the UK rate. For 2016/17 the Scottish government has proposed a rate of 10p, in which case people in Scotland will pay the same rates as the rest of the UK. However if in a future year the Scottish rate is set at 11p, for example, Scottish taxpayers will pay 21% (10% + 11%) basic rate, 41% (30% + 11%) higher rate and 46% (35% + 11%) additional rate tax. Similarly, with a 9p Scottish rate, the combined rates would be 19%, 39% and 44%.

The Scottish rate will not apply to savings income, such as bank interest, or dividends, which will continue to be taxed at the UK rates. It will also not affect income tax allowances and thresholds. Trusts and estates in Scotland will continue to be taxed at UK rates.

Residence tests

Whether you are subject to the Scottish rate will normally depend on where you live. It will make no difference where you work or where your employer is based. For people with just one home this is straightforward. But if you have homes in Scotland and elsewhere in the UK, or if you move in or out of Scotland during the year, it will normally be your main residence that determines whether you are a Scottish taxpayer.

There are various tests for deciding a person's main residence and, unlike the position for capital gains tax (CGT) private residence relief, you cannot choose. If you cannot identify your main residence, you will be a Scottish taxpayer if you spend more days in Scotland than elsewhere in the UK. Days outside the UK are ignored. Your Scottish residence status can change from one tax year to the next, but it will not alter during the year.

Only people who are UK resident in the first place can be Scottish taxpayers. And parliamentary representatives for Scottish seats will automatically be Scottish taxpayers, wherever they live.

HM Revenue & Customs (HMRC) will administer the Scottish rate of income tax. From 2016/17 Scottish employees will have a tax code prefixed by an 'S' so that employers can deduct the correct amount of tax. Employers, wherever they are, must make sure their payroll software can operate the 'S' codes. HMRC will identify Scottish employees from their address. It is therefore important that they tell HMRC if they move house.

The Scottish tax rate will produce some anomalies. Charities will continue to claim gift aid at the UK 20% basic rate, to save charities having to account separately for donations by Scottish taxpayers. However Scottish donors will be able to claim any higher and additional rate tax relief based on their donations grossed up at the Scottish basic rate. For example, if a Scottish higher rate taxpayer makes a charitable donation of £79 when the Scottish rate is 11p, the grossed up donation will be £100 and the higher rate tax relief will be £20. An English taxpayer would receive higher rate tax relief of £19.75 on the grossed up donation of £98.75. HMRC is still consulting with pension providers on how tax relief will work for Scottish members of pension schemes.

We can advise if you are not sure whether you or a family member qualify as a Scottish resident or on how the Scottish rates will affect you.

National minimum wage changes

Just a reminder that the national minimum wage (NMW) rates went up from 1 October. The hourly rate is now £6.70 for workers aged 21 and above, £5.30 for workers aged 18 to 20, £3.87 for 16 or 17 year-olds and £3.30 for apprentices. The apprentice rate only applies to apprentices aged 16 to 18, or, if older, those who are in the first year of their apprenticeship.

From 1 April 2016, the new national living wage will apply for workers aged 25 and above. This has initially been set at £7.20, so a 50p premium on top of the NMW.

A ten mile distinction

The latest update to HM Revenue & Customs' (HMRC's) advisory fuel rates sees 1p reductions to several petrol and LPG rates.

These rates can be used where an employee is reimbursed for business mileage driven in their company car, or where an employee is required to reimburse the cost of fuel used for private travel. The rates will be reviewed again on 1 March 2016.

Engine size	Petrol	Diesel	LPG
1400cc or less	11p	9p	7p
1401cc to 1600cc	13p	9p	9p
1601cc to 2000cc	13p	11p	9p
Over 2000cc	20p	13p	13p

When employees use their own car for business mileage, a rate of 45p a mile can be paid for the first 10,000 business miles driven each tax year, with 25p a mile thereafter. Reimbursement up to these amounts is tax free, and, if the amount is not reimbursed, the employee can claim a tax deduction.

The big question, of course, is which journeys count as business mileage? The current rules are complex, especially when an employee travels from home to a location near their normal place of work. A basic rule is that if a journey is essentially the same as the employee's normal commute, then it does not count as business mileage. For example, such an employee might be working at a temporary workplace close to their normal place of work, or they might be visiting a nearby client on the way to work.

The ten mile rule

HMRC normally applies a ten mile rule, and it is increasingly reinforcing this when checking on mileage claims. For example, an employee's normal commute to her employer's office is 20 miles. One day, she drives past the office to meet a client based a further 12 miles away. Although the total of 32 miles includes the normal commute, the entire journey qualifies as business mileage because the extra distance involved is more than ten miles. The ten mile rule is, however, not relevant where an employee needs to travel in a completely different direction to their normal commute. The trip counts as business mileage regardless of the distances involved.

If the visit occurs on the way to the normal workplace, the classification of the journey comes down to whether or not it is substantially the same as the normal commute. For example, where a client's premises are situated three miles along a four and half mile commute, the trip to the client will not count as business mileage because the journey is not substantially different from the normal commute. Conversely, the trip will qualify if the client's premises are three miles along an 18 mile commute. Regardless of the treatment of the initial journey, any distance between a client's premises and the employer's premises will always be business mileage.

Be warned that fines can be substantial if HMRC finds your mileage record-keeping is inadequate and results in your mileage reimbursements being incorrect.

Perhaps not surprisingly, HMRC is looking to simplify the tax treatment of travel expenses, and is currently consulting on possible changes. It recognises that there can be confusion about whether a journey is substantially the same as the normal commute. One of the proposals is that workplaces which are close together should be treated as a single work location. The rules would then apply on a work location basis rather than to each workplace individually. There is also a proposal to introduce the concept of a 'main base'. All home to work journeys would be business mileage except for those made to the main base.

End of permanent non-domicile status

Government proposals will bring permanent non-domicile status to an end from 6 April 2017.

A person will then be deemed to be domiciled in the UK for all tax purposes once they have been resident in the UK for at least 15 out of the previous 20 tax years.

The 15 out of 20 year rule means that some planning may be possible. For example, you could be UK resident for 15 years, be non-resident for six years, and then be resident for another 15 years without becoming deemed domiciled for any of these years.

The proposals include protection for offshore trusts provided the trust is set up before a person becomes deemed domiciled. Income and gains retained within the trust will be protected from the tax implications of the settlor becoming deemed domiciled. Offshore trusts will also remain effective for inheritance tax purposes. So if you have surplus assets, consider transferring them into trust prior to being caught under the deeming provisions. Of course once deemed domiciled, the exemption will not apply where you, your spouse or your children receive any benefit from the trust.

If you are non-domiciled but UK resident for 15 or more years, you might need to think about leaving the UK for a sufficient period to reset the year count. If you are already overseas, you will need to carefully plan the date of your return.

Tax calendar 2016

Every month

1 Annual corporation tax due for companies (other than large companies) with year ending nine months and a day previously, e.g. tax due 1 January 2015 for year ending 31 March 2014.

14 Quarterly instalment of corporation tax due for large companies (month depends 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.

Month end

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.

January 2016

31 Submit 2014/15 self-assessment tax return online. Pay balance of 2014/15 income tax and CGT plus first payment on account for 2015/16.

February 2016

1 Initial £100 penalty imposed where the 2014/15 tax return has not been filed or has been filed on paper after 31 October 2015.

2 Submit employer forms P46 (car) for quarter to 5 January 2016.

March 2016

1 Last day to pay 2014/15 tax to avoid automatic 5% penalty.

31 Last few days to use any pension, CGT and IHT annual allowances and exemptions and to invest in an ISA in 2015/16.

April 2016

5 Final day of 2015/16 tax year. End of NIC contracting-out. End of temporary RTI reporting relaxation for employers with fewer than 10 employees.

Safehands Accounting Ltd

Safehands Accounting Ltd
St George's House
29 St George's Road
Cheltenham
Gloucestershire
GL50 3DU

Tel: 01242 517889
Mobile: 07900 900853
Email: andrewjamieson@safehandsaccounting.co.uk
Web: www.safehandsaccounting.co.uk

Andrew Jamieson