

JTC NEWSLINE

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Reverse Charge VAT

The public guidance for the new Reverse Charge VAT is still being drawn up and there will be a dedicated reverse charge website, but that too is not yet available. But do not doubt that it will go ahead, everything is being slowed down by you know what...

The flow chart that will be used by accounts offices to decide whether they will invoice for VAT has had yet another redesign. It is likely it will look more like the flowchart at the end of this newsline.

Imagine you are about to send out an invoice for work your firm has done and follow it through. ■

Preventing abuse of the R&D tax relief for SMEs

HMRC has published 'Preventing abuse of the R&D tax relief for SMEs' a new consultation. It considers how the new cap on R&D relief may apply to loss making SMEs. HMRC has identified fraudulent claims involving companies that were set up to claim payable tax credit even though they undertook no R&D and structures where expenditure outside the UK has been re-routed through a UK entity in order to claim payable tax credit.

This consultation considers how the cap will be applied before it is legislated in Finance Bill 2019-20. ■

Spring Statement - Making Tax Digital (MTD)

In the Spring Statement to the House of Commons the Chancellor reaffirmed the Government's commitment to Making Tax Digital (MTD).

Businesses with taxable turnover above the VAT threshold (currently £85,000) will have to keep their VAT records digitally and submit their VAT returns using MTD compatible software for VAT periods starting on or after 1 April 2019, as part of MTD for VAT.

He reported that the VAT pilot service was progressing well, with over 46,000 businesses in the pilot and over 200 MTD compatible software products available, including some free products, and over 140 existing subscription products being updated at no cost at all.

He confirmed a light touch approach to penalties in the first year of implementation. Where businesses are doing their best to comply, no filing or record keeping penalties will be issued.

But remember, if your software fails, always check that you have paid the tax using old fashioned methods like BACS. There is no light touch for failure to pay!

The Chancellor also confirmed the Government will not be mandating MTD for any new taxes or businesses in 2020. ■

Off-payroll working rules for the private sector: consultation - IR35 didn't work, what will HMRC do next?

HMRC have opened a new consultation 'off-payroll working rules from April 2020' about extending the public sector off-payroll working rules to the private sector from 6 April 2020.

At Budget 2018 the Chancellor announced that the public sector off-payroll working rules, which were introduced from 6 April 2017, will apply to medium and large businesses in the private sector from April 2020:

- Medium and large businesses (under the Companies Act definitions) who are engaging individuals who work via a Personal Service Company (PSC) will need to decide whether the off-payroll working rules apply to the engagement.
- Small companies will not be affected. When an organisation becomes/ceases to be small in an accounting period, for the off-payroll working rules the change will apply from the start of the tax year which follows the end of that accounting period.
- Where it is determined that the rules apply, the business, agency, or third party paying the worker's company would need to deduct income tax and employee NICs and pay employer NICs.

HMRC say that without these changes the cost of non-compliance with the off-payroll working rules in the private sector is expected to reach £1.3 billion a year by 2023/24.

The consultation proposes that the new rules should mirror those for the public sector but with adjustments to reflect the differences in the needs and range of activities of the private sector compared to the public sector. It proposes:

- To introduce a requirement for clients to provide status determinations to the off-payroll worker and fee payer together with the reasoning behind those determinations.
- To extend the rules for the transfer of the liability for income tax and NIC so that where HMRC does not receive the tax due, the liability initially rests with the party that has failed to fulfil its obligations by not providing the necessary status determinations.
- To introduce a client-led status disagreement process to deal with status determination disagreements between the client and the off-payroll worker and/or fee-payer.

Following concerns raised by stakeholders, HMRC have advised that they intend to improve the Check Employment Status Tool (CEST) guidance so organisations can confidently make employment status determinations that people working through intermediaries will be able to see and understand. ■

Tax case - no tax relief for laundry costs

Two employed sewage workers were unsuccessful in claiming tax relief for the costs of laundry and personal hygiene. They were unable to prove how much they had spent and whether the costs were incurred in performance of their duties as employees.

They claimed tax relief for their costs of washing their clothes and protective work wear and themselves every day. Their claims were for £2,200 for most years but were estimated, they had no evidence.

It might well have gone the other way if they had had evidence of costs. ■

The loan charge for disguised remuneration loans

It now appears that one of the major promoters of self-employed disguised schemes did not notify the schemes under DOTAS. There is a growing realisation that HMRC's estimates that only some 50,000 people are affected by the coming loan charge may be far too low.

On 5 April 2019 the loan charge will apply to all outstanding disguised remuneration, self-employed and contractor loans taken out since 1999, unless a settlement is in progress with HMRC before that date.

Where settlements are not concluded by 5 April but interest has been registered and initial information provided to HMRC, scheme users have until 31 August 2019 to complete the settlement process before the loan charge will apply.

Anyone who is uncertain about whether the loan charge applies to their scheme may find the anonymised case studies provided by HMRC useful and must talk to their accountant.

With penalties for late reporting of the loan charge starting at £300, and with inaccuracies being penalised at up to £3,000 per error, scheme users who are not settling their schemes should start thinking about how they are going to meet the loan charge reporting requirements now. ■

Consultation: protecting your taxes in insolvency

The government has launched a consultation 'Protecting your taxes in insolvency' which looks at making HMRC a secondary preferential creditor for certain tax debts on the insolvency of a business.

At Budget 2018, the government announced that it will introduce legislation in Finance Bill 2019-20 to make HMRC a secondary preferential creditor for certain tax debts paid by employees and customers. Currently all tax claims are non-preferential unsecured creditors.

The proposed change would only apply to businesses and would give the following taxes priority over non-preferential unsecured creditors (such as suppliers and customers) and secured creditors with floating charges:

- VAT
- PAYE (including student loan repayments)
- Employee NICs (but not Employer NICs)
- Construction Industry Scheme Deductions. ■

**If you have a query on any item in
newline contact**

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Reverse Charge VAT

This flowchart is to help businesses supplying building and construction services decide whether to apply normal VAT rules or apply the domestic reverse charge. It is not to be used for supplies by employment businesses. They will invoice with VAT under normal rules.

