Business Update

ISSUE 1 2020

knilljames chartered accountants

Head office: One Bell Lane, Lewes, East Sussex, BN7 1JU Tel: +44 (0)1273 480480 Email: info@knilljames.co.uk
London office: 3 Queen Square, London, WC1N 3AR Tel: +44 (0)207 843 9466
Partners: Christopher Ketley · Kevin Powell · Susan Foster · Nicholas Rawson · David W Martin · Mark Filsell

Registered to carry on audit work in the UK, regulated for a range of investment business activities, and licensed to carry out the reserved legal activity of non-contentious probate in England and Wales by the Institute of Chartered Accountants in England and Wales.

@Knilljames

Care at home: your responsibilities

'Death, taxes and childbirth! Never any convenient time'.

We could all echo the line from 'Gone with the Wind' quoted in a recent Office of Tax Simplification (OTS) report. But for the increasing number of people using home help, such as carers for disabled or elderly relatives, the OTS thinks tax can be particularly challenging.

If the work arrangement amounts to direct employment, the individual or family concerned should operate a PAYE scheme. This applies whether hiring help directly, or with funding from a body such as the local authority or NHS.

Some local authorities offer a payroll service. If not, HMRC's free Basic PAYE Tools (BPT) software can be used where working arrangements are straightforward. Further information about BPT can be found here **bit.ly/2tDtf4b**. Provision of payslips is now a legal obligation for employers, and in a welcome move, HMRC has advised that BPT is being updated to provide the functionality to do this from April 2020.

Employing home help also brings other responsibilities, such as the need to pay National Minimum or National Living Wage. There are also pensions auto-enrolment obligations and employment law issues to consider. We are always happy to advise in this area.

Government gear change on company car tax

Why the business-next-door could soon be driving electric.

A clean green era with new emissions tests and benefit in kind (BiK) rates gets on the road in April 2020. But what does the drive to cut emissions and grow electric technology look like in terms of tax?

Key to the new regime is the new Worldwide Harmonised Light vehicle Test Procedure (WLTP), which replaces the current New European Driving Cycle (NEDC) emissions test. With higher carbon dioxide (CO_2) readings anticipated under WLTP, vehicle tax will be impacted in various ways. From April 2020, the CO_2 value obtained under WLTP will be used to determine Vehicle Excise Duty - although existing VED rates are retained in April, pending further government consultation. And for all new cars provided to employees and available for private use, first registered from this date, the WLTP CO_2 figure will affect BiK treatment.

For BiK purposes, tax is worked out by multiplying the list price of the car (including most accessories) by the 'appropriate percentage'. Percentages are determined by fuel type and level of CO_2 emissions.

- For cars first registered from 6 April 2020, most BiK rates are reduced by two percentage points. This changes the rates published earlier and applies for the 2020/21 tax year only.
- In 2021/22, and again in 2022/23, they increase by one percentage point.
- BiK calculations for 2020/21 and 2021/22 now involve checking whether a vehicle is registered before, or after 6 April 2020, to work out the appropriate percentage.
- All new zero emission models are free of company car tax for one year from 6 April 2020, to incentivise the shift to green vehicles. The benefit is 1% in 2021/22, and 2% in 2022/23.
- Electric mileage range will be key to the appropriate percentage for some hybrid vehicles.
- The BiK percentages for cars registered before 6 April 2020 are frozen for 2021/22 and 2022/23.

The changes provide business owners with considerable food for thought, and we have only been able to highlight key points here. The decision to go electric is a major one, involving not just tax, but consideration of the available infrastructure, charging facilities, total business mileage, and other issues. Do contact us for an in-depth discussion of your business motoring strategy, and tax efficient provision of employee benefits.

Inside this issue

■ New year resolutions for family companies ■ Capital gains fall-out for couples and family homes ■ Battling online bank fraud ■ Charities: easy prey? ■ Workplace skills crisis ■ National Insurance number missing

New year resolutions for family companies

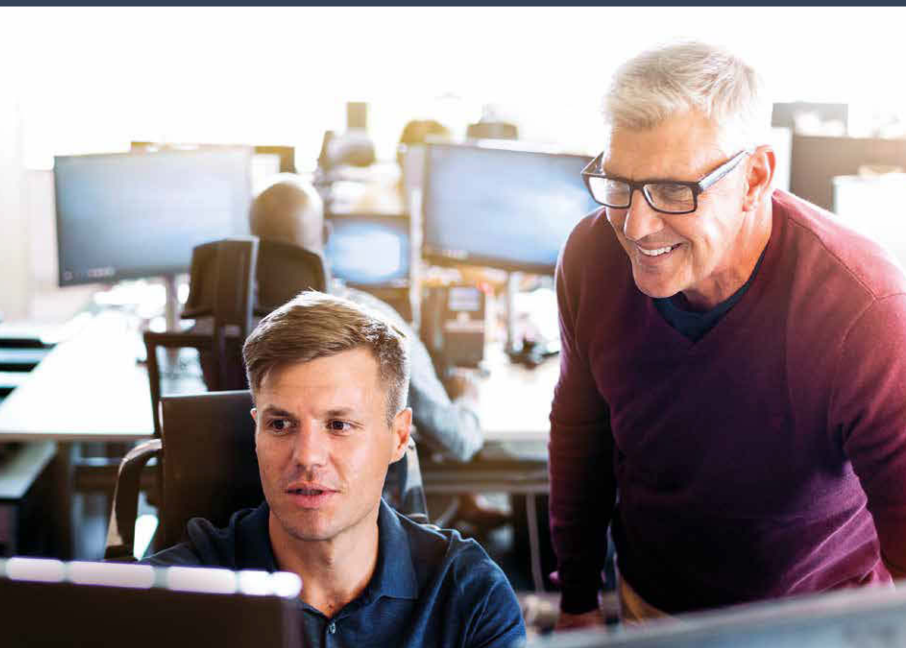
1. Deliberately decide what to take out

Why? Because getting the best tax results is never a matter of chance

The most tax efficient way to extract profits for director-shareholders is usually to pay a minimal salary and top up with dividends. The salary level can be pitched to keep state pension entitlement, but stopping short of the point at which National Insurance contributions (NICs) are due. This strategy can lead to considerable savings in NICs.

Dividends have their own tax treatment. Basic rate taxpayers pay tax at 7.5% on dividends, higher rate taxpayers 32.5% and additional rate taxpayers 38.1%. Taken alongside the Dividend Allowance, £2,000 in 2019/20, this can produce very favourable results. Remember however, that company profits taken as dividends are chargeable to corporation tax - currently 19%.

Where finances are such that you don't actually need to extract profits, consider leaving some in the company. Although they stand to be taxed at corporation tax rates, this is still lower than paying at income tax rates. Retained profits can be used to fund expansion, possibly bringing future business development a step closer. On the other hand, you don't want to become an accidental investment company - see resolution number 5.



2. Think pensions

Why? Because pensions for directors provide ideal planning opportunities

Extracting profit from your company via pension contributions can be very tax efficient. If the company makes employer pension contributions for directors, it is generally free of tax for the director. There is no National Insurance for the employer or director on the contribution. The company should also qualify for tax relief on the contribution. There is potential to make contributions for a spouse also employed by the company.

There are still limits to watch. The annual allowance - usually £40,000 - is the total employer and employee contribution that can be put into a defined contribution pension scheme each year. However, the annual allowance can fall by £1 for every £2 of 'adjusted' income over £150,000, until it reaches a minimum of £10,000. Adjusted income includes not only total income, but the value of employer pension contributions for the year.

On the other hand, there may be unused annual allowance from the three previous years, which can give scope for significant pension contribution without a charge. Please don't hesitate to contact us for advice.

3. Review loans from the company

Why? Because your loan account has tax implications for both you and your company at the year end

Director-shareholders in family companies often have a 'loan' advance from the company. A director's loan is any money received from the company that is not salary, dividend, repayment of expenses, or money you have previously paid into or lent to the company. Loan advances often represent personal expenses paid by the company. That sounds technical, but is actually as simple as putting a pony magazine for your daughter and a six pack of crisps on the company card when you fill up with fuel.

If you have a loan from your family company, the company faces a tax charge if it's not paid back within nine months of the end of your accounting period. This is an amount equal to 32.5% of the loan. If you pay it back within nine months, there is no tax charge.

There are tax efficient ways to make the repayment, including awarding a valid bonus or dividend. HMRC is wary of arrangements where a director repays a loan in time to avoid a tax charge, but then takes out a second loan for a similar amount almost immediately. This is a complex area and we are always happy to advise.

4. Work out where family fits in

Why? Because employing family members multiplies tax efficiency

Look for opportunities to involve your family in the business. Which areas of work could you effectively delegate? Employing a spouse, sibling or the next generation can mean more opportunities to extract profit from the company before higher rates of income tax come into play. The rider is that profit extracted for family members needs to reflect commercial reality, and match the work they actually do.

5. Plan ahead

Why? Because some of the most important tax reliefs available to your company can easily be lost

It's very easy to get bound up in the day to day running of your company and lose the long term perspective. But eventual access to reliefs like Entrepreneurs' Relief (ER) for capital gains tax purposes and Business Property Relief (BPR) for inheritance tax can be significantly affected by decisions you take now. Recent change to rules on ER makes it more critical than ever before that shareholding, voting rights, entitlement to distributable profits and assets available on a winding up are correctly structured.

Getting it right here will help with another resolution: don't accidentally turn from a trading business into an investment company. This can be a risk if your company buys land or property, or you retain considerable profits in the company. For ER on the sale of a company, there may be an issue where 20% or more of the total value of the company stems from non-trading investment activities. Availability of BPR can also be affected if non-trading assets are more than 50% of the value of the company.

Please contact us to shape tax efficient, bespoke solutions for you and your family company.

Capital gains fall-out for couples and family homes

Married and divorcing couples, including civil partners, should be alert to change to the capital gains tax (CGT) rules on private residence relief.

Divorcing couples

Tax is never at the top of the agenda when a relationship ends, yet the tax consequences can be far-reaching. A jointly-owned family home is often the most important asset when couples divorce. But for many practical reasons, its value isn't always rapidly realised, and for divorcing couples, the reduction in the CGT final period exemption for property disposals on or after 6 April 2020 could have considerable impact.

The final period exemption gives a useful extension to the time available to dispose of a property that has, at some time, been the main private residence. It can be particularly relevant in a marriage breakdown, where one party moves out of the family home. Hitherto it has given an 18-month grace period. Someone buying a property as a new main residence, before disposing of the old, could obtain private residence relief on the original home for the last 18 months of ownership, even after moving out.

But from April, the final period becomes nine months, giving less time to sell before a CGT charge could arise. Where higher rate taxpayers are involved, this could mean a tax rate of 28% applies. Also from April, new requirements to report and pay CGT within 30 days of completion have the potential to add to the financial strain of divorce.

HMRC treats spouses and civil partners as living together unless separated under court order; by a formal Deed of Separation executed under seal (this should be witnessed in Scotland); or in circumstances such that the separation is likely to be permanent. Whilst living together, a couple can only have one residence to which private residence relief pertains. Following separation, it is possible to obtain relief on a different property.

There is a concession for divorcing couples, where one party moves out of the family home. It can extend the final period exemption, but only where an interest in the family home is transferred to the other party as part of the overall financial settlement on separation, divorce or dissolution. If transfer takes place outside the final period exemption window, full private residence relief would be normally be lost. Here it can be extended to the date of transfer, or date that the recipient spouse ceases to use the property as their main residence – whichever is the earlier. A tax claim must be made for this treatment to apply. It will not always be advantageous, as the spouse moving out cannot then get relief on any new purchase for this period.

Other considerations

Where one party moves out and buys another home before disposing of their interest in the family home, for example, there is also the fact that higher rates of tax are paid on the purchase of 'additional' property throughout the UK. Although in some circumstances, a refund can be claimed on sale of the previous main home, the impact in terms of cash flow can be significant. To discuss tax and marriage breakdown more fully, please do not hesitate to get in touch.

Whose main residence?

A further change from 6 April 2020 will also affect married couples and civil partners. Where property is transferred between spouses, the receiving spouse will always take on the other spouse's history of use of the property. At present, this only happens if the property is their main residence when the transfer takes place. Due to the tax free transfer rules between spouses, this can produce anomalous results where a property has been the main residence of one, but not both, spouses in the past. The new rule may significantly affect the amount of private residence relief available to spouses following such transfers.

The new spousal rules will impact different people in different ways, and we would recommend bespoke advice, tailored to your circumstances. It may be that transfer before 6 April 2020, under the old rules, or after 6 April, under the new rules, produces the best results for you. We are happy to advise on optimal timing.

Battling online bank fraud

Bank fraud and scams cost UK customers £1.2 billion in 2018 alone, and businesses faced even higher losses. The good news - better online security is on the way.

'Strong customer authentication' (SCA) is a new way for banks and payment service providers to verify customer identity and validate payment instructions. SCA stems from the EU's Payment Services Directive, and should go ahead regardless of Brexit. The complete suite of changes should soon be in place: by 14 March 2020 for online banking services, and by March 2021 for online shopping. In many cases, SCA will entail customers using a smartphone, although there are workrounds suggested for those without a smartphone or reliable signal. Customers will have to provide two different types of information, out of three different categories: knowledge – something only the user knows, like a PIN or password: possession – something only the user possesses, like a card checked by a card reader: and inherence – something unique to the user, like voice or fingerprint.

Card issuers, payments firms and online retailers are preparing for the change. You may find they contact you with details of their plans.

Charities: easy prey?

'Not doing the basics to protect themselves'. That was the verdict on charities from the largest ever survey into fraud and cybercrime in the sector.

The findings are sobering. They cite charity fraud potentially running into billions of pounds each year, with the 'strong ethos of trust' leaving charities particularly vulnerable. And whilst 85% of charities think they are doing everything they can to prevent fraud, nearly half don't have good practice protection in place.

Cybercrime is another growth area, and there are fears that the higher age profile of charity trustees can coincide with lower levels of cyber awareness. The survey recommends that charities clarify responsibility for managing the risk of cybercrime, ensuring that it's a governance priority for every Board.

Insider fraud is a major concern. Of the charities experiencing fraud in the last two years, more than half knew who the criminal was. Fraudsters came from the ranks of paid staff (29%), volunteers (18%), beneficiaries (13%) and trustees (10%). But there are 'red flags' to look out for. These can be things like someone seeming unwilling to share duties, being reluctant to delegate or to take holiday – or perhaps seeming unusually close to suppliers.

Most frauds are small-scale and time-limited. They range from cash theft; cheque or banking fraud; to so-called 'Mandate' or 'Chief Executive' (CEO) fraud. This is the most common type of charity fraud, often carried out by hoax email. With CEO fraud, the fraudster impersonates an organisation that the charity deals with, or senior staff within the charity itself.

Appropriate financial controls and audit procedures are likely to detect many of these issues. The Charity Commission has a clear call to action, recommending that charities:

- acknowledge the risk of fraud and potential for serious reputational damage
- enhance fraud awareness for staff and volunteers
- agree and implement financial controls, ensure they operate properly, and review them regularly. Controls can be as simple as having at least two signatories to bank accounts and cheques; carrying out regular bank reconciliations; and making sure no one single person has oversight or control of financial arrangements
- put in place procedures to report fraud (whistleblowing)
- show commitment to best practice by adopting 'Tackling Charity Fraud: Eight Guiding Principles' **bit.ly/2FwSnfA**
- publish details of any fraud on the charity's website, and also report it to relevant external agencies
- ensure pre-employment checks are carried out before recruiting staff and volunteers, especially those in financial or senior roles
- carry out due diligence checks on staff, volunteers, donors and beneficiaries.

Workplace skills crisis

UK employers: facing a skills crisis – and spending at unsustainably high levels to get out. This is the reality of day to day life for many UK businesses, according to a recent Open University report.

The Open University Business Barometer 2019 found that UK business is spending £4.4 billion annually to address the skills shortage, with the cash going on recruitment fees, increased salaries, temporary staff and training costs to upskill workers. More than two thirds of employers had difficulty finding appropriately skilled employees. Managerial skills were in particularly short supply, with IT and leadership skills coming second. In around a quarter of cases, positions went unfilled. Many employers felt that their business was not as agile as it needed to be to tackle future challenge successfully, and nearly half anticipated a knock-on effect on business finances.

A key take-away message was that businesses are increasingly growing their own in-house talent. Over 50% had increased the spend on training and development, with long-term sustainability, and increased staff loyalty cited as additional benefits. Work-based training and apprenticeships were particularly attractive to over half the businesses surveyed.

We should be pleased to advise on any part of the recruitment process, including the creation of apprenticeships. Do not hesitate to contact us to discuss your business strategy.

National Insurance number missing

If an employee forgets their National Insurance number (NINO), or needs a letter confirming it, there are options. They can be advised to:

- **check previous paperwork - payslips, P60, tax, pensions or benefits correspondence**
- **use form CA 5403. This is completed online, printed and posted to HMRC bit.ly/2ZZWYAx but can take up to 15 days. It is not designed for anyone who has not had a NINO before. A different process applies here**
- **phone the National Insurance Number Helpline, 0300 200 3500 – though this only takes requests: HMRC won't give NINOs over the phone. Information is sent by post, with a 15-day timeframe**
- **go online via the personal tax account, or use the HMRC app. Going online is HMRC's preferred route, and should be the quickest. Employees can be directed here www.gov.uk/personal-tax-account to set up a personal tax account. From this, they can share, print or view a copy of their NINO confirmation letter.**

Where employees are unable to provide you with a NINO by the time you run your payroll, HMRC suggests that the relevant field on your Full Payment Submission is left blank.

Disclaimer - for information of users: This newsletter is published for the information of clients. It provides only an overview of the regulations in force at the date of publication and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this newsletter can be accepted by the authors or the firm.