



# Tax Briefing



**Autumn 2016**

## Spreading dividends around the family

Every UK-resident individual can receive up to £5,000 of dividends tax free each year, whatever their marginal rate of tax. As a company owner you could arrange for your family members to receive dividends from your company to take advantage of this.



Spreading dividend income in this way can reduce the tax you pay, if that income doesn't pass through your hands first. Dividends can also be used to help support your children through university.

The first step is to ensure your family members hold shares in your company which entitle them to receive dividends. You can give those individuals some of your own shares if you already hold sufficient shares yourself. We can help your

company issue more shares and different classes of shares as necessary.

To avoid the dividends paid on shares you give away being taxed as part of your own income, the shares should carry full rights to receive part of the company's capital on a winding-up, as well as rights to receive variable rates of dividends. You should only make gifts of shares to your children once they have reached the age of 18.

If your family members also work for the company there is a risk that the value of the shares they receive will be taxed as part of their employment income. However, there is a general exemption for gifts made within a family relationship, so make that clear in any documents

relating to the gift. Alternatively, the family members could subscribe directly for new shares in the company.

If you give shares to your spouse or civil partner (while you live together), the gift is not taxed. Gifts of shares to other individuals will be taxable, but when the value of the gift is small it may be covered by your annual capital gains tax exemption (£11,100). Tax on larger values of shares can be postponed if the company is mainly a trading company (as opposed to an investment company).

Before any dividend is declared or paid, it's wise to review the effect it will have on the recipients. Where the dividend tips an individual's total income over £50,000 or £100,000, they could lose child benefit or personal allowances.

## Pensions lifetime allowance protection

The pensions lifetime allowance was reduced to £1m from £1.25m on 6 April 2016. This threshold is tested when you start to take your pension

benefits. If your pension fund value exceeds the lifetime allowance at that point, you need to pay a tax charge on the excess at 55% or 25%

(depending on whether you take a cash lump sum or not).

If you have retired since 5 April 2016, or expect to do so »



» shortly, you should assess whether the value of your pension savings does exceed £1m. A pension valuation from a qualified IFA may be required to do this. You may be surprised at the value of

your total pension funds, as a total of £1m can be easily achieved by making regular pension contributions over 30 to 40 years.

Where you find your pension pot is around the £1m mark you should consider applying for fixed protection 2016 (FP2016) or individual protection 2016 (IP2016). These procedures fix your

lifetime allowance at the lower of your pension pot value at 5 April 2016 and £1.25m.

You need to apply for either type of fixed protection online, through the HMRC services page. We can help you through this process, but the first step is to think about how much your pension pot could be worth.

## Investors' relief: new conditions

This tax relief could allow you to pay only 10% CGT on gains you make on shares held in trading companies. The conditions you need to meet for this relief have changed significantly in recent months.

The shares must be issued directly to you on or after 17 March 2016 and you must hold them continuously for at least three years. When the shares are issued the company mustn't be quoted on a recognised stock exchange, but it can become 'quoted' later.

You can't take advantage of investors' relief if you are

already employed by the company, but you can become an employee of the company six months or more after you subscribe for the shares. You must not be offered employment with the company when you subscribe for your shares.

You are permitted to become an unpaid director of the company and hence influence the running of the company. You can be paid reasonable expenses which are directly



related to the costs you incur a director, but you mustn't be paid a salary for that role.

There are strict rules to prevent you extracting value from the company other than as rent or interest paid on a commercial basis.

The conditions which you and the company need to meet to qualify for investors' relief are very complex. Our capital tax experts can guide you through them step by step.

## Landlords beware !



A new law, designed to tax foreign investors who snap up UK properties at bargain prices, may also snare UK-based landlords from 5 July 2016.

When you let out a property, you pay income tax (at 20%, 40% or 45%) on the net rental income, or corporation tax (at 20%) if you operate as a company. When you sell the property, you pay capital

gains tax on any capital gain at 20% or 28%. A company will pay tax at 20% on the gain but it can deduct an allowance for inflation, so the taxable amounts are not directly comparable.

Property developers or dealers (as opposed to landlords) pay income tax or corporation tax on all the profits they make from selling or letting their properties. The new law treats a landlord as a property developer if HMRC can show that one of the main drivers for buying the property was to make a gain on its sale. This means the tax payable will be income or corporation tax, not the lower capital gains rates.

In practice, HMRC may assert that the profit motive was there on acquisition and the landlord will have to disprove it. If the property has been held for a relatively short period in a rising market, that may be a difficult assertion to challenge.

As yet there is no official guidance on the circumstances in which HMRC may seek to apply this new law. For now, be cautious of buying properties to make a quick gain, as the tax payable may be higher than you expect. Please discuss your plans to develop or sell property with us before the event, so we can help you budget for the tax due.

## Paying HMRC

Paying tax should be easier now that HMRC accepts payments through the Faster Payments system. This can be used to transfer funds almost instantaneously, on any day of the year, 24 hours a day.

The maximum transaction value is £250,000, but individual banks have their own limits, which can be as low as £10,000 for business accounts. Remember to check your own bank's transaction limit if you plan to pay a large bill, such as VAT, using Faster Payments. Where the limit is not sufficient to

cover the VAT bill the whole payment will fail, resulting in a late payment.

If your business made one or more late VAT payment or return in the previous 12 months, the next default could result in a surcharge penalty. This will range from 2% to 15% of the late paid VAT, even if your payment is only one day late. Businesses with turnover under £150,000 are permitted to make more defaults in a year before suffering a surcharge penalty,

which is only applied where the penalty exceeds £400.



Paying HMRC from an overseas bank account is more difficult, as the taxpayer needs the

IBAN number and bank identifier code for the HMRC bank account. These details are published on GOV.UK. But be careful to pick up the IBAN number for the account specific to the tax you are paying: there are different accounts for different taxes.

## VAT flat rate scheme

The scheme can be helpful for businesses with turnover under £150,000 as it's simple to use. You can even make money out of the scheme if the flat rate percentage applicable to your trade sector is particularly favourable.

For example, a journalist pays 12.5% of gross sales as VAT each quarter and doesn't have to report the costs of business purchases on the VAT return. There is an exception when buying assets costing £2,000 or more.

You need to pick the right trade sector for your business. Use normal English to describe what your business does and compare this to the HMRC

guidance. We can help you with that.

Anomalies can create difficulties: software is grouped with computer and IT consultancy (flat rate 14.5%), but publishing (flat rate 11%) covers books, journals, newspapers and sound recordings. So a business that publishes information online as well as software will have products that fall under 'publishing' as well as in the 'computer and IT consultancy' sector.



The business owner must judge which products generate the majority of their sales and use the flat rate for the corresponding sector.

Once you are in the flat rate scheme, review your choice of trade sector on the anniversary of the date on which you started to use it. Estimate which products will make up the greatest percentage of sales in the following year. Your new flat rate (if it changes) should be used from the beginning of that year.

If your business drops one type of activity completely, this may lead to a change in trade sector. In that case use the new flat rate percentage from the date the business activities changed until the next anniversary of joining the flat rate scheme. Tell HMRC in writing within 30 days if you change the flat rate you use, the date it changed, and why.

## Student loan deductions



It is now a bit more complicated to deal with student loan repayments through the payroll. You need to identify whether a new employee has a Plan 1 or Plan 2 loan to repay, as the repayments start at dif-

ferent annual thresholds: £17,495 and £21,000, respectively.

If your employee presents a Form P45, that will indicate whether they have an outstanding student loan, but it won't specify whether the loan is Plan 1 or Plan 2.

The ex-student should know which type of loan they have. Ask them to confirm by completing a starter checklist (download a template from gov.uk). If they don't know which type of loan they have, you must assume it's Plan 1 and make deductions at 9% of pay over the lower pay threshold.

## Sign-in online for tax refund

Every year HMRC conduct a tax reconciliation process for taxpayers who are mainly taxed under PAYE. If a refund is due, or more tax is payable, this is reported on Form P800.



This year, refunds won't be automatically dispatched as a cheque. Instead the P800 will ask you either to sign into your Personal Tax Account and submit your bank details online or to ring HMRC. The refund will then be made by bank transfer.

If you take no action for 45 days, your refund will be issued by cheque. If we are authorised to receive the tax refund on your behalf, you won't be able to use the online tax refund service.

## Funding your SMP payments

Statutory maternity pay (SMP) is payable at 90% of the employee's average weekly earnings for the first six weeks, and then at £139.58 per week for the remaining weeks.

The SMP due is easy to work out if your employee receives the same pay every week or month; you can check your calculations using the HMRC online tool.

But the HMRC tool is not clever enough to cope with unusual pay periods, such as quarterly or irregular payments. It could give you the wrong answer, which may

lead to an over- or underpayment of SMP.

You can recover 103% of the SMP you pay to employees from HMRC if the total Class 1 NIC the business paid in the previous tax year was no more than £45,000. Otherwise you can recover 92% of the SMP paid; you make the claim on the EPS submitted under RTI.

Where the SMP (or paternity/adoption pay) due to your employees in a month is greater than the PAYE deductions to be made in the same month, you can request advanced funding for the



statutory payment from HMRC. This can be done online using a structured email form for the type of statutory payment.

We recommend the email method rather than using the Government Gateway, which has unexplained faults with this claims procedure.

## Issues with the CIS

As a contractor in the construction industry you must submit online monthly reports of the payments you make to subcontractors (CIS reports). But before you pay a subbie you need to verify with HMRC whether they should be paid net or gross. This verification can be done by phone or online.

If you use the free HMRC software to submit your CIS reports, you may have experienced the following problems.



### Subbies missing

You shouldn't have to re-verify subbies you pay regularly, but the HMRC computer automatically deletes any subbies you haven't verified for two years or more.

The solution is to re-verify the subbies concerned using the online system.

If you use the telephone service for verification of subbies, then manually enter the details of that firm in the online CIS return, those subbie's details will disappear on submission of the CIS return. By verifying the subbies online, the details of those firms will be included automatically in your online CIS return.

### Time out message

This can happen if you have paid a large number of subcontractors. Try deleting the subbies you no longer pay regularly.

### New subcontractors

If you make a mistake when choosing the category of subcontractor (eg, self-employed or company) when inputting those details on the CIS online service, there is no way to correct that detail. You need to delete the whole record and start again.

All of these problems can be avoided by using commercial software to submit your CIS returns. We can do this on your behalf.