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EMPLOYMENT

Remote working is here to stay

Working from home has again become the default position for many workers and could continue for another six months. But not all can. Employers need to ensure safe and sustainable working environments for all their employees.

Many have found working from home very effective because it avoids office distractions and reduces commuting. Working more flexibly can often mean being able to fit work around family responsibilities, especially when children may be sent home from school to isolate at short notice. Such factors can create a happier and more diverse workforce.

For those continuing at home, their physical workspace should be properly equipped, not just with their computer but also a good chair and table. Communicating expectations clearly is important. Staff should take regular breaks and not work excessively long hours.

> *Employers need to have a fair procedure for determining which employees can work at home and when. Consultation with staff is essential.*

For some employees, however, working from home can have a negative impact on morale, productivity and overall mental health. A Covid-secure workplace may be the best place for them to be and employers should be able to offer this alternative.

Some employees could work partly at home and partly in the workplace. Employers need to have a fair procedure for determining which employees work where and when, considering employees' personal concerns and circumstances as well as business needs. Consultation with staff is essential.

It's clear the pandemic has triggered an increase in workplace stress, anxiety and depression, whether directly from fear of the disease, or indirectly, because of changes to ways of working, isolation or concerns about money and job security.

Employers have a duty of care to ensure the health and safety of their workforce, so far as reasonably possible, including employees' mental health and wellbeing. Staff should feel safe to discuss such concerns without fear of stigma within an effective framework of policies and systems to identify and manage mental health issues.

VAT

Capital gains tax in the spotlight

Government support for business during the Covid-19 pandemic has left a huge hole in the Treasury's finances. Tax rises could be on their way, with capital gains tax (CGT) under review.

CGT is paid mainly by wealthier people. Chancellor Rishi Sunak recently asked the Office for Tax Simplification (OTS) to examine the way people who sell second homes, works of art and stocks and shares can escape paying tax on their gains. This comes at a time when CGT receipts are expected to fall as a result of reduced values of property and shares.

Mr Sunak said he also wanted the OTS to report on how CGT rates compare with other taxes and how the present rules can distort behaviour. CGT is paid at 28% by higher and additional rate taxpayers selling residential property, compared with up to 45% on income. Equalising CGT and income tax rates could raise up to £14 billion year.

Profits on sales of other assets are taxed at up to 20%. Business sales may be taxed at just 10% and CGT reliefs may permit taxpayers to defer CGT by reinvesting in qualifying new assets.

It is too early to say whether and when CGT might rise. Coronavirus-related measures may push reforms onto the back burner. But it would be wise to review your CGT position in readiness for the spring Budget and consider the optimum time to realise any gains.

EMPLOYMENT

Incentivising job retention

A new Job Retention Bonus of £1,000 per employee has been designed to encourage the retention of furloughed staff after the Coronavirus Job Retention Scheme (CJRS) ends on 31 October 2020.

The bonus can be claimed for all eligible employees, including company directors and agency workers. A claim under the new Job Support Scheme (running for six months from 1 November 2020) will not affect eligibility.

Conditions

The one-off payment of £1,000 will be given for every previously furloughed employee who remains continuously employed through to 31 January 2021. But the bonus will only apply to those employees who have been legitimately furloughed.

- Eligible employees must earn at least £520 a month (the NIC lower earnings limit) on average between 1 November 2020 and 31 January 2021 – therefore a total of at least £1,560 across the three months. However, there must be some earnings in each of the three months.

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- The employee must not be serving a contractual or statutory notice period which started before 1 February 2021.
- The employer must comply with their RTI payroll reporting obligations through to 31 January 2021.

Only those earnings reported under the employer's RTI (real time information) payroll will count towards the £520 a month average minimum earnings. For directors especially, it will be important they are paid sufficient salary each month.

Special cases

There are specific provisions for certain groups.

- **Fixed term contracts** An employee's fixed term contract can be extended or renewed without affecting bonus eligibility, provided they remain in continuous employment.
- **TUPE transfers** The bonus will also be available where an employee transfer is protected under the TUPE legislation (and in certain other similar circumstances). The transfer must have occurred before 31 October 2020, there must have been continuous employment and the new employer must have submitted a CJRS claim for the employee.

Employers will be able to claim the bonuses after filing their PAYE for January 2021. Payments will be made from February 2021.

The bonus will be taxable, so the amount received must be included as income when calculating taxable profits.

TAX

Reliefs and retained profits

Could retaining profits in your trading company to avoid higher rates of income tax close off other beneficial tax reliefs?

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There's nothing wrong with this in the short term, but you need to be aware of how cash, investments and rental property on your company balance sheet can impact on the longer term availability of tax reliefs.

Capital gains tax reliefs

Two major capital gains tax (CGT) reliefs may be available: business asset disposal relief on the disposal of your shareholding, and also holdover relief if you gift your shares.

Non-trading activities must not be 'substantial', meaning that they should not normally amount to more than 20% of the value of the company's total activities or assets. However, HMRC applies this test 'in the round'. So even though cash balances or rental property may dominate the balance sheet, the test might be met based on the proportion of: investment income, non-trade related expenditure and time spent on non-trading activities.

Your actual situation could be much more complicated than this. Some cash balances could be left out of the equation if they are deemed necessary for future trading purposes, rather than being surplus to requirements. Investments or rental property can mean holdover relief is not available.

IHT business property relief

Access to this relief is dependent on establishing that your company is not mainly an investment company, with 'mainly' in this context meaning more than 50%. An 'in the round' approach again allows more leeway. Relevant factors to consider include:

- respective ratios of asset values, profit and turnover;
- time spent; and
- overall context of the business.

However, relief is restricted where there are 'excepted assets' on your company's balance sheet. These are assets not used wholly or mainly for business purposes, with a particular problem being a large surplus cash balance.

Holding investments or rental property, rather than cash, should get around the excepted asset issue, provided the 50% test is still met. However, this will then jeopardise holdover relief, so seek expert advice.

TAX

Van benefit charge

The van benefit in kind charge will be abolished for fully electric company vans used privately by an employee from 6 April 2021. The government's aim is to increase the uptake of zero emissions vans.

Employees are currently subject to a benefit in kind charge if they have the use of a company van and use it privately. The definition of 'private use' for a company van does not include an employee's normal commute to work. Over recent tax years, the fully electric company van benefit charge has been set at an increasing percentage of the full charge, and for 2020/21 it is 80% (£2,792) of the full amount.

Fully electric vans already escape any fuel benefit charge because electricity is not treated as a fuel, even if the employer installs a vehicle charging point at the employee's home or provides a charge card to allow access to commercial charging points.

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