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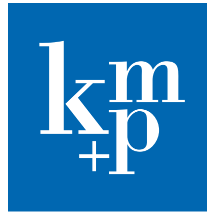

Summer 2014

Newsletter

New rules for taxing LLP members

Some members of limited liability partnerships (LLPs) are in danger of being taxed as if they were employed rather than self-employed under new rules that came into force on 6 April 2014.

From the tax year 2014/15 onwards, an LLP member will be taxed as an employee if they meet all the following conditions:

A. At least 80% of the total amount the LLP pays the member for their services is a 'disguised salary'. This will be the case where the individual is paid a fixed level of remuneration or if the amount varies but it is not linked to the profits and losses of the LLP.

B. The member does not have significant influence over the management and affairs of the whole LLP.

C. The member's contribution of capital to the LLP is less than 25% of the disguised salary for the tax year.

An LLP member who meets all these conditions will now be treated as an employee for tax under PAYE. Furthermore, both the member and the LLP as an employer will have to pay class 1 national insurance contributions (NICs) rather than the overall much lower level of self-employed NICs.

To prevent their being treated as employees, members of LLPs will need to establish that they do not meet at least one these conditions. One way to achieve this would be to make sure that at least 25% of their earnings remains within the LLP. So individuals who were LLP members at 6 April 2014 have three months (i.e. by 6 July 2014) to provide sufficient capital to ensure that condition C does not apply. In many cases, the additional capital should be available in the form of bank loans.

The new rules for LLPs were part of a wider set of provisions covering the taxation of partnerships. Another set of rules was aimed at preventing the allocation of profits in mixed partnerships to corporate partners in order to take advantage of the generally lower rates of tax that apply to companies.

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Flexible pensions on the horizon

The Budget proposed some major changes to the ways in which people can access their pension benefits.

Under the pre-Budget 2014 rules for drawing retirement benefits, from age 55:

- You could draw up to 25% of the fund free of tax as a lump sum.
- The balance had to be used to provide an income under a variety of options, of which the main ones were:
  - *Buy an annuity* Annuities normally guarantee an income throughout life.
  - *Choose capped drawdown* This allowed withdrawals directly from the pension fund, but they were subject to maximum amounts that were subject to regular review.
  - *Select flexible drawdown* This was effectively drawdown without any annual limits or compulsory reviews, but it was only available to individuals with at least £20,000 a year of secure (state or occupational scheme or pension annuity) pension income.

Finance Bill 2014: The interim changes

The pension changes are being introduced in two main steps. There are various interim provisions pending the planned changes from April 2015:

- *Capped drawdown* The limit for capped drawdown increased from 120% to 150% of the broadly equivalent market annuity rate for drawdown years starting on or after 27 March 2014. So, for example, if you are 65, the maximum capped drawdown as at May 2014 would be 8.85% of the fund.
- *Flexible drawdown* From 27 March 2014 the minimum secure income you need in order to take flexible drawdown was reduced from £20,000 to £12,000.

Future legislation and consultation

The later changes will take a little longer to introduce and are currently subject to consultation.

- *Pension flexibility* From 6 April 2015 capped drawdown will disappear and effectively flexible drawdown – with no minimum income requirement – will become available to everyone. Annuity sales are expected to plummet as a result.
- *Death benefits* The tax position on death under the current rules is that any money remaining in a pension fund that is being used for drawdown is subject to a flat tax charge of 55%. The same tax rate also applies to any fund that is not in drawdown if the death occurs from age 75 onwards.

The Budget statement said that "…the Government believes that a flat 55% charge will be too high in many cases in the future" and promised to "engage with stakeholders" in reviewing the rule.

PAYE reporting – year two of Real Time Information

If you have more than nine employees but fewer than 50 you should have started real time PAYE reporting from 6 April.

The HM Revenue & Customs (HMRC) relaxation for employers of this size has now ended. New employers with nine or fewer employees must also start real time reporting.

Under Real Time Information reporting – which HMRC calls RTI – employers have to send details to HMRC every time they pay an employee at the time of payment using payroll software to send this information electronically to HMRC.

Existing employers with nine or fewer employees will not have to start real time reporting until April 2016. For other employers, 2013/14 was the first year of real time PAYE reporting.

It is a good idea to know how much leeway you have before penalties apply.

Late payment

You are allowed to be late with one monthly or quarterly payment without incurring a penalty. Company owner-managers may have just one year-end payment. But a second late payment will mean a penalty of 1% of the tax due, with the percentage increasing for each subsequent late payment during 2014/15. Harsher penalties will apply if you are more than six months late with daily interest applied.

Late filing

After 6 October, you will not be penalised for your first late submission. Penalties are then applied on a monthly basis, and any subsequent late submission during a month will mean a penalty.

Inaccurate filing

Incorrect submissions could attract a penalty if you do not take reasonable care, so it is worth taking a little extra time to ensure accuracy.

The following company car fuel rates apply to all journeys from 1 March 2014 until further notice. Hybrid cars are treated as either petrol or diesel cars in this context.

Engine size	Petrol	Diesel	LPG
1,400cc or less	14	12	9
1,401cc to 1,600cc	16	12	11
1,601cc to 2,000cc	16	14	11
Over 2,000cc	24	17	17

Increasing ISA limits and relaxing some rules

Normally, it is a good idea to make use of your individual savings account (ISA) allowance at the start of each tax year – and this year is no exception.

However, the 2014/15 ISA investment limits will be increased from 1 July 2014, so you will need to arrange to top up your investment at that time.

ISAs enjoy much the same privileges as pension funds – without the tax relief on inputs. The funds are free of UK tax on the rolling up income and capital gains. Like pensions, ISAs cannot benefit from reclaiming the tax credit on dividends on UK shares. Unlike pensions, the proceeds are 100% taxfree.

Introducing NISA

ISAs are being reformed, becoming a simpler product called the New ISA or NISA from 1 July. Once NISAs are introduced, you will be able to invest up to £15,000 a year, and this limit will be completely flexible. It will therefore be possible to put the whole £15,000 into a cash NISA or a stocks and shares NISA or any combination you wish.

The stocks and shares component will also benefit from several changes. Currently, if you hold cash pending future investment, any interest you earn in the ISA is subject to a 20% tax charge. This tax charge will cease from 1 July 2014, so there will no longer be any tax charge if you turn your ISA stocks and shares investments into cash.

AIM shares have been permitted since last August (a change that at the time did not receive much attention). Some AIM shares qualify as business assets for inheritance tax purposes. So if you hold them for at least two years, they should be free of this tax. From 1 July it will also be possible to invest in short-dated securities through an ISA because the five-year to maturity requirement has been abolished.

Junior ISAs

The 2014/15 junior ISA investment limit for children under 16 will also increase from £3,840 to £4,000 from 1 July. Many families are currently locked into poorly performing child trust funds, but from April 2015 it should be possible for them to transfer the funds into junior ISAs, which generally pay higher rates of interest and may suffer lower charges.

Capital expenditure relief doubles

The annual investment allowance (AIA) allows you to deduct the cost of many business assets as an expense when calculating your taxable profit.

Buildings and cars do not qualify, but expenditure on plant, machinery, commercial vehicles and office equipment does.

The Government has a history of raising and lowering the AIA, which makes it difficult to plan ahead. The annual limit of £25,000 was increased to £250,000 from 1 January 2013 and it has now doubled to £500,000 for the period 6 April 2014 (1 April for companies) to 31 December 2015. It is due to return to £25,000 from 1 January 2016, unless there is another change of legislation. To the extent that expenditure exceeds the limit, it will just qualify for writing down allowances at 8% or 18%.

If you do not want to incur the full cash cost of expenditure immediately, you could consider hire purchase. Assets are treated as if you had bought them immediately – and so the AIA is available - but the payments are spread over the life of the agreement.

However, the rules can become complicated and you should be particularly careful if your accounting date spans 1 January 2016.

£2,000 NIC cut for employers

Smaller employers should especially welcome the new Employment Allowance that was introduced from 6 April. It has the effect of reducing the amount of employer class 1 national insurance contributions (NICs) each employer pays to HM Revenue & Customs (HMRC) by up to £2,000 each tax year.

You can claim the Employment Allowance if you are a business or charity (including Community Amateur Sports Clubs) that pays employer class 1 NICs on your employees' or directors' earnings.

If your company belongs to a group, or your charity is part of a charities structure, only one company or charity can claim the allowance. It is up to you to decide which of them will do so.

You cannot claim the Employment Allowance if you employ someone for personal, household or domestic work, such as a nanny, gardener or au pair. Public organisations such as local authorities, also cannot claim the allowance.

You can only claim the £2,000 Employment Allowance against one PAYE scheme – even if your organisation runs multiple schemes.

The employment allowance, as the name suggests, was introduced with the aim of encouraging employment. For 2014/15 it should cover your NICs if you employ four adult full-time workers (or eleven 18-20 year-olds) at the national minimum wage.

If you are the owner-manager of your company and withdraw the profits mainly in the form of dividends, the allowance may be of little or no benefit unless you have employees or you decide to pay yourself a salary or bonus of more than the personal allowance of £10,000.

But remember that although you can reduce your NICs by £2,000, you will lose the tax relief you would have received on those NICs.

Claiming the allowance is quite straightforward, and if you run your own payroll it should be as simple as confirming you qualify when first running the payroll for 2014/15. If the software does not support a claim, you can use HMRC's Basic PAYE Tools. The allowance is deducted as your NICs arise; so if the monthly employer's NICs are £500, there should be nothing to pay until August.

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From January 2015 people aged 65 and over will be able to buy the two new National Savings and Investments (NS&I) fixed rate pensioner bonds. The current expectation is that there will be a one-year bond paying a gross rate of 2.8% and a three-year bond paying 4.0%. The investment limit per bond will be £10,000, and so a couple should be able to invest £40,000.

NS&I currently do not offer anything similar and the assumed rates are well above what is available elsewhere. The bonds will probably sell out quite quickly, so you might want to make sure that you have sufficient cash readily available for January.

TAX CALENDAR

Every month

1 Annual corporation tax due for companies with a year ending nine months and a day earlier, e.g. tax due 1 July 2014 for year ending 30 September 2013.

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

30/31 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.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

MAY 2014

19 Deadline to submit RTI earlier year update for 2013/14 and avoid a penalty if the final EPS was not submitted by 19 April.

31 Last day to issue 2013/14 P60s to employees.

JULY 2014

1 New ISA investment limit £15,000. Junior ISA and Child Trust Fund limit increased to £4,000.

5 Last date to agree a 2013/14 PAYE Settlement Agreement (PSA) with HMRC.

6 Deadline for employers to make returns of expenses and benefits (forms P11D, P9D and P11D(b)) for 2013/14 to HMRC and provide copies to employees.

10 Deadline to submit employee share scheme annual returns (including Form 42).

14 Due date for CT61 return and CT payment for quarter to 30 June 2014.

31 Confirm tax credit claims for 2013/14 and renewal for 2014/15.

Due date for second self-assessment payment on account for 2013/14.

AUGUST 2014

1 Penalty of 5% of the tax due or £300, whichever is the greater, where the 2012/13 return has not been filed.

2 Submit employer forms P46 (car) for quarter to 5 July 2014.

3 Second 5% penalty imposed on 2012/13 tax still unpaid on 2 August.

OCTOBER 2014

1 National minimum wage rates go up (£6.50 per hour for 21 and over).

6 Start of RTI automatic late submission penalties.