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Autumn 2016
# Newsletter

# The new state pension system

**April marked the beginning of the new single-tier state pension.**

The state pension regime underwent a seismic change on 6 April 2016. Until then the system had long consisted of two components: a basic state pension (£119.30 in 2016/17) and, for employees only, an earnings-related pension. On top of these two was the means-tested Pension Credit, guaranteeing a minimum overall weekly retirement income of £155.60 (in 2016/17).

Unless you reached your State Pension Age (SPA) before April this year, that complicated structure will no longer apply to you. In place of the two state pensions there is now a single-tier pension, pitched at a level just high enough (£155.65 a week maximum in 2016/17) to make the remaining element of Pension Credit largely irrelevant.

You will now need 35 years of National Insurance contributions or credits to earn the full single-tier pension, compared with 30 years for the former basic state pension. If you have a contribution record of fewer than 10 years by your SPA, you will get no single-tier pension. As a general rule, only your own contribution record counts – you cannot rely upon your spouse's or civil partner's contributions.

Once you start to receive the single-tier state pension you will benefit from annual increases based on the 'triple lock' (the greater of 2.5%, CPI price inflation and earnings increases).

The single-tier reform has come with many transitional provisions, the most important of which sets a "starting amount" of pension as at 6 April 2016, which is the greater of:

- what you accrued under the old rules; and
- the amount you would get if the new rules had existed when your working life began.

This calculation includes adjustments for periods of contracting out of the state second pension and its predecessor. These can produce surprises: in 2016/17 only 38% of those reaching SPA will receive the full £155.65 a week.

The new regime creates more losers than winners because its long term cost is lower than its predecessor. Broadly speaking, the higher your earnings and the further you are from your SPA, the worse off you will be. It is worth visiting the government pension projection website (www.gov.uk/check-state-pension) to see how much you might receive.

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# Changes to entrepreneurs’ relief

**Entrepreneurs’ relief is important for all business owners, because the capital gains tax charge on qualifying assets is only 10%. But directors could be hit by a new change.**

There is an overall lifetime limit of £10 million on the amount of gains on which you can claim the relief, and you can claim as often as you like up to this level. ‘Disposal’ could be a sale or even the liquidation of a personal company.

Several types of assets can qualify for entrepreneurs’ relief. These include all or part of a business owned by a sole trader or business partner, including the business’s assets after it closed, and shares (or securities) in a company where the person making the disposal has at least 5% of the shares and voting rights. The business or company being disposed of must be trading to qualify for the relief.


An important change made this April to entrepreneurs’ relief hit directors who wind up a solvent company. They can no longer claim entrepreneurs’ relief if they continue to work in the same trade as the company in the following two years after the liquidation. A record number of solvent companies were wound up in March in anticipation of this change.

The new rule will affect situations where a shareholding director sells the goodwill and other business assets out of their company and then puts the company into liquidation and takes the proceeds as a capital gain taxed at just 10%. In such circumstances, the buyer of the underlying business might well expect the outgoing owner to continue working as a consultant for a changeover period. This could now present a problem and you should be aware of this possibility when negotiating a deal. It is essential to get advice on this matter.

There can also be complications where a company owns a share in a joint venture with another company, especially following changes in the Finance Bill.

Sole traders or business partners must have owned the business for at least one year before the date on which they sell it. And if an owner is closing their business, they must have owned it for at least a year before the closure. The business assets must then be disposed of within three years to qualify for relief.

For a sale of shares or securities, the seller must have been an employee, a director or some other office holder of the company being sold or one in the same group.

# Loan rates rise for close companies

**The rate of ‘temporary’ tax charged on loans to participators in close companies has been increased from 25% to 32.5%, with the increased rate applying to loans made on or after 6 April 2016.**

Very broadly, your company will be classed as close if it is controlled by five or fewer participators – usually shareholders – or by any number of participators if they are also directors. If it were not for the close company loan rules, it would be very easy to take tax-free loans rather than taxable remuneration or dividends.

The tax treatment of a close company loan can be quite complicated because the employment income beneficial loan rules can also come into play. The 32.5% charge applies only to loans to participators, whether or not they are directors. However, loans to directors can also be taxed as beneficial loans regardless of whether they are participators.

You may think that this does not affect you, but it is surprisingly easy for a director’s current account to become overdrawn – which would be treated as a loan. Remember that any personal expenses which have been paid from the company’s bank account may be charged to your loan account.

A typical strategy would be to cover the debt by declaring a dividend, but this will not be possible if company profits are insufficient – such as when a loss has been made. A better approach may be to vote salary and/or dividends at the start of the year so that you have funds available to draw upon.

Although it’s a good idea to simply avoid overdrawing your loan account, there might be a situation when you really need a short-term company loan.

With careful timing, you can make use of company funds for up to 21 months without having to pay the 32.5% charge. And if a charge is paid, timing is also important when it comes to repayment. Doing this just before the company’s year-end, rather than just after, results in a one year earlier tax repayment.

If your spouse or partner is also a director and their loan account is in credit, then that balance could be used to offset your overdrawn account. However, for this to work, the two accounts must effectively be operated jointly.

**Most granny flats will not now be caught by the new 3% stamp duty surcharge. This exception applies where you buy a separate flat, annexe or even a holiday home alongside your main residence, provided the value of the second property is not more than a third of the total price paid. So, for example, if a main property is worth £250,000 and a separate annexe is £50,000, the buyer will avoid the 3% surcharge because the annexe is less than a third of the total price.**

# Tax on investments: new opportunities

**Valuable opportunities have opened up recently to save tax on investments. Some people will now be able to have up to £17,000 of savings income tax free. If they also receive dividends, up to £22,000 of their income could be tax free as a result of the new £5,000 dividend allowance.**

There are essentially three main categories of income:. savings income, which includes interest on deposits in banks and building societies; dividends; and other income such as earnings, pensions and rent.

Tax rates are applied to different types of income in a defined order and that order can make a difference to the amount of income tax payable. The order for taxing income is: first earning and other non-savings, then savings income and finally dividends.

### 0% rate band

The 0% starting rate of tax operates in a very specific way but it can be valuable. The maximum 0% starting rate band is £5,000 and is given on your savings income if non-savings income is no more than the personal allowance of £11,000. However, as non-savings income is taxed first, it will not be available at all if your non-savings income exceeds the personal allowance plus the £5,000 starting rate band – that is a total of £16,000. So if you have earnings/pension income of up to £11,000, you could receive £5,000 of savings income free of income tax.

Dividend income does not affect your entitlement to the savings income starting rate band because it sits on top of the savings income and is taxed last under the rules set out above for the order of taxing income. So you might have £11,000 of earnings, £5,000 of savings income and thousands of pounds of dividend income, but you would still qualify for the nil starting rate band and that would mean your £5,000 of savings income would continue to be taxed at nil.

There is also the new savings allowance. For basic rate taxpayers, the allowance means that £1,000 of savings income will be tax free. Basic rate taxpayers could therefore potentially receive tax free savings income of £17,000 ( i.e. £11,000 personal allowance plus £5,000 taxed at 0% starting rate plus £1,000 savings income allowance). For higher rate taxpayers the savings allowance is reduced to £500, so the value of the tax relief given by the allowance is the same whether you are a 20% taxpayer or a 40% taxpayer. But if you have enough income to push you into the 45% tax bracket – even by just a pound – you lose the allowance.

### Spread the income

Basic rate tax is no longer deducted at source from interest on bank and building society accounts, etc. In addition, from April this year, the first £5,000 of a person's dividend income is tax free. So it makes sense to ensure that dividend income is spread around a family – where possible – to maximise the benefits of having tax-ree income.

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Some couples might find that one of them has a relatively low level of earnings/pensions, in which case the lower income partner should consider holding the assets that generate the savings income and dividends to qualify for the extra tax-free cashflow.

Children under 18 – and sometimes even older – generally have relatively low earnings or other non-savings income. Any tax free savings or dividend income they receive could be really tax-efficient. But don't forget, income that arises from a parental gift will be taxable on the parent if it comes to over £100 in a tax year.

# Read the fine print on trivial benefits

**Since 6 April this year there has been no need for employers to account for tax and NICs on trivial benefits provided to directors and employees. Of course, as with everything tax, it's never quite that straightforward.**

The cost of providing the individual benefit cannot exceed £50. There is an overall annual cap of £300 applied to directors of close companies – as most small companies are. The cap also applies to trivial benefits provided to family members of those directors. An average cost can be used to establish whether the £50 limit is met. So if five employees attend a meal costing a total of £240, the cost per head can be taken as £48.

There is no exemption for cash or cash vouchers, and the benefit has to be provided for a non-work reason such as a birthday, social event or a gift on the birth of a new baby. The benefit cannot be given in recognition of a job well done or for any other work-related reason such as providing a working lunch, late night taxis or a team-building event.

Also, there must be no contractual entitlement to the benefit and it cannot be provided under a salary sacrifice arrangement.

# Implications of Brexit for tax and business

**The vote to leave the European Union has triggered a period of uncertainty for the UK economy. The UK's future relationship with the EU will not be clear for some time.**

Community law currently affects national taxation in several ways and the implications for business tax will depend on the outcome of the negotiations between the UK and the EU.

In the days after the vote, former Chancellor George Osborne, looking to mitigate the potential risks of leaving the EU, trailed a cut in corporation tax to 15% or less. His successor, Philip Hammond, has made no commitments but intends to focus on measures to encourage investment in UK businesses and to support bank lending. The Autumn Statement, normally in early December, may present new opportunities.

The UK hasn't formally left the EU yet and will only do so sometime after Article 50 is triggered. Constraints on some tax changes may then be removed.

Speculation that the UK might abolish VAT is almost certainly unfounded. VAT generated £115 billion last year, which would be difficult to replace, and the continuation of VAT is likely to be a prerequisite for UK access to the European single market.

The extent to which UK VAT might diverge from EU VAT law, for example by extending the zero rate, is uncertain. Changes to the rules for supplies made to or from EU member states will probably be needed, and companies that sell directly to EU consumers may have to set up warehouses within the EU to continue to benefit from the current rules.

Leaving the EU should remove the prohibition on state aid to business, making it easier for the government to provide tax incentives. Customs procedures and duties may be imposed on businesses trading with the EU if the UK leaves the EU customs union without entering into a free trade agreement.

Although direct taxes are under national control, the government does currently have to ensure that corporation tax rules are consistent with EU law and the principle of fiscal neutrality. Outside the EU, a government might wish to favour


UK companies fiscally. On the other hand, EU governments might discriminate against them.

Much could remain the same if the UK joins the European Economic Area. Structural change to UK tax is likely to be slow. We will keep you informed so that you can make best use of any opportunities and mitigate any difficulties.

**This year, there are more reasons than normal why your PAYE code could be incorrect. For example, if you are a company director, HM Revenue & Customs (HMRC) might have coded out the estimated tax on your dividends rather than waiting for you to pay the tax on the 31 January 2018 deadline. However, HMRC will have based the estimate on your income for last year before the tax rules changed. Interest is now paid gross, so HMRC may also have included this in your coding – even if it is covered by the tax-free savings allowance. You can, of course, have dividends or interest removed from your PAYE code.**

## TAX CALENDAR

*Every month*

**1** Annual corporation tax due for companies (other than large companies) with year ending nine months and a day previously, e.g. tax due 1 October 2016 for year ending 31 December 2015.

**14** Quarterly instalment of corporation tax due for large companies (month depends on accounting year end).

**19** Pay PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

**22** PAYE/NIC 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.*

### OCTOBER 2016

**5** Deadline to register for self-assessment for 2015/16.

**14** Due date for CT61 return for quarter to 30 September 2016.

**22** Pay tax and Class 1B NIC on PSAs (19th if not paying electronically).

**31** Deadline for 2015/16 tax return if filed on paper.

### NOVEMBER 2016

**2** Submit employer forms P46 (car) for quarter to 5 October 2016.

### DECEMBER 2016

**30** Deadline to submit 2015/16 tax return online to have underpaid PAYE tax of up to £3,000 collected through the 2017/18 tax code.

### JANUARY 2017

**14** Due date for CT61 return for quarter to 31 December 2016.

**31** Submit 2015/16 self-assessment tax return online. Pay balance of 2015/16 income tax, Class 2 NIC and CGT plus first payment on account for 2016/17.

### FEBRUARY 2017

**1** Initial £100 penalty imposed where the 2015/16 tax return has not been filed or has been filed on paper after 31 October 2016.

**2** Submit employer forms P46 (car) for quarter to 5 January 2017.

### MARCH 2017

**2** Last day to pay 2015/16 tax to avoid automatic 5% penalty.

**31** Last few days to use any pension, CGT and IHT annual allowances and exemptions and to invest in an ISA in 2016/17.