NEWSLETTER SEPTEMBER 2015

CLASS 2 NATIONAL INSURANCE CONTRIBUTIONS – (NIC) A NEW SYSTEM FOR DETERMING LIABILITY AND PAYMENT

A revised system for the calculation and collection of Class 2 NIC. The good news is that the new system should be an improvement on the current system. However the dates by which Class 2 NIC is payable will change. If you have been making monthly payments, these will stop. It will be possible to re-apply to make payments by direct debit but HMRC have not yet finalised the online process for doing this.

The current system - 2014/15

Technically liability for Class 2 arises in respect of each week that an individual has 'earnings from a self-employed employment'. Earnings are similar to trading profits but are not always the same.

Class 2 NIC have been payable twice a year, with an option to pay the liability by direct debit.

If paid twice a year the due dates are the same as for the payment of income tax and Class 4 contributions for profits assessable in 2014/15:

First payment due	31st January 2015
Second payment due	31st July 2015

Alternatively it was possible to pay by monthly or six monthly direct debit with HMRC advising individuals of the precise dates by which payments are taken from bank accounts.

The new system – 2015/16

For the 2015/16 tax year, Class 2 NIC will change from being a weekly liability to an annual liability which is triggered by the amount of profits which are declared to HMRC through the self-assessment system. The amount of Class 2 NIC will still be calculated based on the number of weeks of self-employment in the year. This makes the system easier as the Class 2 NIC is one simple calculation based on the same figure of profits being used for income tax.

For example, a 2015/16 tax return is submitted showing trading profits of £30,000. The Class 2 liability is therefore £2.80 for each week the individual was self-employed in 2015/16.

The Class 2 liability will be due no later than 31 January 2017 and will be shown as part of the self-assessment statement which details the income tax and Class 4 liabilities due on 31 January 2017. The Class 2 liability will not be included in the calculation of payments on account of income tax and Class 4 for 2017/18.

In practical terms there is a big gap between the final payment of Class 2 for 2014/15 (July 2015) and the one payment for 2015/16 (January 2017).

If you would prefer to pay in instalments, there will be an option to use a budget payment plan. HMRC will provide further details nearer the time of how to apply for this option. However unlike the current system in which monthly payments are made in arrears, payments made under a budget payment plan are made in advance of the due date.

Special circumstances – low profits

Under the existing system, individuals expected to have a low amount of earnings for the tax year could apply for a Small Earnings Exception certificate. This is no longer needed under the new system. If the assessable trading profits submitted to HMRC are below the Small Profits Threshold (£5,965 for 2015/16), no Class 2 NIC is due. An individual can however pay voluntary Class 2 NIC in order to maintain a contribution record for contributory benefits (for example the State Pension).

Special circumstances – employed and self-employed income

Under the current system, individuals who are self-employed but also have employment income are eligible to apply for deferment of Class 2 NIC.

This process is no longer required under the new system as HMRC will calculate whether any Class 2 NIC are due when the tax return is submitted.

Please contact us if you require any further information or advice.

THE NEW DIVIDEND REGIME

The fundamental announced change to the dividend regime is simple enough in principle. A Dividend Tax Allowance charges £5,000 of dividend income at 0% income tax, the complexities of the notional tax credit regime are thrown away and three new rates of taxation are applied to dividends above £5,000 depending upon whether the taxpayer is a basic rate, higher rate or additional rate taxpayer.

A policy note was issued by government on 17th August 2015 however there has been no draft legislation. The new regime will be legislated for in Finance Bill 2016. This may mean that we do not see the draft legislation until the Autumn Statement in early December.

What we do not know is:

- The interaction, if any, between the Dividend Tax Allowance and the 0% savings rate introduced in 2015/16.
- The impact on double tax agreements for non-UK dividends and the non-resident investor receiving UK dividends.

The basics of the new regime

The Dividend Tax Allowance does not change the amount of income that is brought into the income tax computation. Instead it charges £5,000 of the dividend income at 0% tax. This means that:

- The payment of low salary below the personal allowance will allow some dividends to escape tax as they are covered by the personal allowance.
- The £5,000 allowance effectively reduces the available basic rate band for the rest of the dividend.

A tax computation for an individual with his own company in 2016/17 would look as follows:

Salary as director	£8,000
Dividend income	£41,000
Total income	£49,000
Less personal allowance	£11,000
Taxable income	£38,000
Tax at 0% on	£5,000
Tax at 7.5% on balance of basic rate band ((£32,000 - £5,000)	£27,000
Tax at 32.5% on	£6,000

£32,000 is the basic rate band for 2016/17.

What about savings income?

If a person has savings income such as bank interest or interest on loans he has made to his company, the position is rather more uncertain due to two factors:

- Legislation for a Personal Savings Allowance will also be introduced in Finance Bill 2016 to apply a Personal Savings Allowance to income such as bank and building society interest from 6 April 2016. The Personal Savings Allowance will apply for up to £1,000 of a basic rate taxpayer's savings income, and up to £500 of a higher rate taxpayer's savings income each year. The Personal Savings Allowance will not be available for additional rate taxpayers.
- In 2015/16 some individuals qualify for the 0% starting rate of tax on taxable savings income up to £5,000. The rate is not available if taxable non-savings income (broadly earnings, pensions, trading profits and property income) exceeds the starting rate limit.

Dividends do not fall within the definition of savings income and we do not expect them to fall within the definition for the Personal Savings Allowance either. The published guidance states:

Combined with the increases the government has made to the personal allowance and the introduction of the Personal Savings Allowance, from April 2016 individuals will be able to receive up to £17,000 of income per annum tax-free.

The £17,000 is made up of £11,000 personal allowance, £1,000 Personal Savings Allowance and £5,000 Dividend Tax Allowance. So the Personal Savings Allowance and Dividend Tax Allowance would appear to act independently as exemptions.
However we don't know anything on the interaction, if any, between the Personal Allowance and the 0% starting rate.
If clients with their own company do have significant savings income and little other income such as a salary, their prospective tax liabilities cannot be computed until we find out more.

Is a dividend still better than a salary as a means of profit distribution?

In all cases, a dividend is cheaper than a bonus. The 2015/16 figures are given as a comparison. Does a client save by being a company rather than as an unincorporated business? Based on what we know so far the calculations are that incorporation may still result in lower tax bills than remaining unincorporated but the tax savings are significantly reduced.

Current tax year savings assuming:

- 2015/16 tax rates and bands
- Salary from company is £8,060
- Full profit distribution

Profits:	£30,000	£50,000	£100,000
Tax and NI payable:	£	£	£
As sole trader	6,001	12,791	33,791
As company	4,388	9,053	29,053
Potential saving	**1,613**	**3,738**	**4,738**

Additional cost of dividend payments in 2016/17 assuming:

- 2015/16 tax rates and bands except for dividend tax rates which are 2016/17
- Salary from company is £8,060
- Full profit distribution

Although we know income tax rates and bands for 2016/17, we do not know the NI bands. There is also a longer term proposed reform of Class 4 due to the abolition of Class 2. And there are also reductions in the corporation tax rates from 1 April 2017. So we have computed these figures based on the 2015/16 tax regime except for dividend tax rates.

Profits:		£30,000	£50,000	£100,000
	£	£	£	£
Dividends		17,552	33,552	73,552
Balance of personal allowance (£10,600 - £8,060)		2,540	2,540	2,540
Taxable dividend		15,012	31,012	71,012
Tax on dividend using 16/17 rates				
Basic rate band	31,785			
Dividend Tax Allowance at 0%	5,000	0	0	0
Balance of basic rate band	26,785			
Basic rate band at 7.5%		751	1,951	2,009
Higher rate band at 32.5%		0	0	12,749
		751	1,951	14,758
Tax on dividend using 15/16 rates		0	665	10,65
Extra tax on dividends		**751**	**1,286**	**4,093**

The following table compares the current tax savings with the extra tax on the dividends

Profits:	£30,000	£50,000	£100,000
	£	£	£
Tax savings in 15/16	1,613	3,738	4,738
Less: extra tax on dividends 16/17	751	1,286	4,093
Tax savings in 16/17	862	2,452	645

So, a typical client is still saving some tax by being incorporated. For those clients who wish to incorporate, it may be best to defer the decision until sufficient detail of the new regime has been published by the government.

TRAVELLING EXPENSES CLAIMED FROM EMPLOYERS

The government is proposing to remove tax relief for ordinary commuting (in general, home-to-work travel and subsistence expenses) for workers who are:

- supplying personal services
- engaged through an employment intermediary (including umbrella companies, certain employment businesses and personal service companies)
- subject to (or to the right of) the supervision, direction or control of any person.

The effect of this will be that individuals whose relationship with their engager is such that they look and act like employees, cannot claim relief on the everyday cost of travelling to work, when employed through an intermediary. This will ensure a level playing field for access to tax relief for travel and subsistence.

Ordinary Commuting and permanent workplaces (section 338-339) of the Income Tax (Earnings and Pensions) Act 2003 and the National Insurance Contributions disregard

Tax relief for travel and subsistence expenses is available for workers travelling in the performance of their duties (such as the travel undertaken by a travelling salesman) or for travelling to or from a place they have to attend in the performance of their duties (such as travel to a meeting at a client's premises). This relief is available, provided that the journey is not ordinary commuting or private travel. There is a corresponding NICs disregard.

Ordinary commuting is defined in Section 338(3) of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) as travel between the employee's home and a permanent workplace and home, or a place that is not a workplace and a permanent workplace.

Expenses for travel to a temporary workplace can be paid free of tax and NICs. A temporary workplace is a place which a worker attends in the performance of their duties for the purpose of performing a task for a limited duration, or for some other temporary purpose.

If the workplace is attended for a temporary purpose or a task of limited duration, but the worker goes to the same workplace for all or almost all of the time for which the worker is likely to hold, or continues to hold, the same employment, then it is considered a permanent workplace. This will normally be the case if the worker is employed to work at one place on a fixed term contract and means that a temporary worker should not be eligible for tax and NICs relief on the costs of their ordinary commute. However, as explained above, those working through employment intermediaries are sometimes eligible for tax relief, even where this was not envisioned when the legislation was first introduced.

TAX-FREE CHILDCARE TO LAUNH IN 2017 FOLLOWING COURT RULING

The government has welcomed a judgment from the Supreme Court that found the proposals for delivering Tax-Free Childcare to be lawful. The new Tax-Free Childcare Scheme was being challenged by some of the providers of the childcare vouchers typically used in the current Employer Supported Childcare arrangements.

The scheme is now expected to launch from early 2017. The existing Employer Supported Childcare scheme will remain open to new entrants until Tax-Free Childcare is launched.
Exchequer Secretary to the Treasury, Damian Hinds said:

'We are pleased that the government's proposals for delivering Tax-Free Childcare have been found to be clearly lawful. This government is absolutely clear on the importance of supporting families with their childcare costs.'

'It is disappointing that some organisations involved in the existing scheme felt the need to take and persist in this costly and wasteful course of action, which has led to a delay in the launch of Tax-Free Childcare.'

If you would like advice on Employer Supported Childcare please contact us.

TIME TO PAY ARRANGEMENTS – MANDATORY DIRECT DEBIT

Where a taxpayer has difficulty paying their tax liabilities HMRC may agree 'time to pay arrangements' whereby the taxpayer agrees to pay off the amount owing by instalments after the due date. These arrangements are only entered into where the taxpayer is genuinely unable to pay by the due date and is able to commit to agreed payments to bring their tax up to date.

HMRC have announced that where time to pay arrangements are agreed the payments will need to be made by Direct Debit. This has always been HMRC's preferred method of collection but this became mandatory from 3 August 2015.
However, HMRC do state that:

'We recognise that there will be exceptional circumstances where a customer is unable to set up a direct debit, perhaps because their bank account will not allow it. In such cases payment by other methods may be agreed.'

NMW CAMPAIGN TARGETS HAIR AND BEAUTY SECTOR

HMRC are targeting employers in the hairdressing and beauty sectors who pay their staff below the national minimum wage (NMW).

HMRC and the Department for Business, Innovation and Skills (BIS), supported by the National Hairdressers' Federation and the Hair and Beauty Industry Authority, will work with hair and beauty businesses to help them understand their pay obligations to their employees.

In a new approach HMRC will provide employers with tools and guidance to check if they are paying the correct amount.

Employers who take this opportunity to 'self-correct' will not have to pay penalties, nor will they be 'named and shamed'. If employers choose not to comply with their NMW obligations, HMRC will take action to ensure that employees are paid what they are owed.

As detailed in the press release 'BIS analysis shows that 42% of businesses in the sector do not pay level 2 and level 3 apprentices the correct minimum wage – the highest underpayment rate of any sector. Those paying under the minimum wage now have a chance to put things right. If they fail to do so it could result in their business being publicly 'named and shamed' and facing a fine of up to £20,000 per employee.'

Jennie Granger, HMRC Director General of Enforcement and Compliance, said:

'This innovative campaign is about helping employees who have been underpaid get the money they are legally due back into their pockets. It will help them understand where they can report underpaying employers confidentially.

It is also about helping employers check if they are making mistakes, and self-correct if they are. Some employers will need a bit of a reminder to check they are getting it right, and some will need stronger action from us, so we are bringing in more enforcement officers to support this campaign. I urge all employers and employees in the sector to check that salary is being paid correctly, as we will use these extra resources to find and investigate where it is not. Check you're paying NMW correctly – it's worth it.'

Employers in the hair and beauty sector are being asked to come forward as part of the National Minimum Wage Campaign by:

- advising HMRC they want to take part in the campaign
- disclosing details of arrears now paid to their workers and confirming that wages worth at least the NMW are now paid to all workers.

If you would like help with NMW issues please contact us.

ALCOHOL WHOLESALER REGISTRATION SCHEME

The Alcohol Wholesaler Registration Scheme (AWRS) is being introduced on 1 October 2015 by HMRC to tackle alcohol fraud. HMRC are advising that if you are an alcohol wholesaler or trade buyer, you need to prepare for the new registration scheme now.
Who the scheme applies to

HMRC are advising that the AWRS will apply to existing, and new, wholesalers of alcohol, trading at or after the point at which excise duty has become payable. In addition all businesses that trade in or retail alcohol will in future need to make sure that any UK wholesalers that they buy from are registered with HMRC. The types of business who will be affected include:

- alcohol wholesalers
- brokers
- auctioneers
- alcohol retailers.

The scheme will not apply to private individuals purchasing alcohol from retailers.
HMRC are advising that:

- from 1 October 2015, all alcohol wholesalers must apply online to HMRC to register for AWRS
- from 1 January 2016 HMRC will start to review all AWRS applications to decide whether businesses are 'fit and proper' to be accepted onto the register. Where a business fails the 'fit and proper' test, HMRC will remove its right to trade in wholesale alcohol
- from 1 April 2017, all businesses that trade in, or retail, alcohol will need to make sure that any UK wholesalers that they buy from are registered with HMRC. HMRC will provide an online look up service so that trade buyers can ensure wholesalers they buy from are registered with HMRC.

NATIONAL MINIMUM WAGE RATES AND NATIONAL LIVING WAGE

The National Minimum Wage (NMW) is a minimum amount per hour that most workers in the UK are entitled to be paid. NMW rates increases come into effect on 1 October 2015.

From 1 October 2015:

- the adult rate will increase by 20 pence to £6.70 per hour
- the rate for 18 to 20 year olds will increase by 17 pence to £5.30 per hour
- the rate for 16 to 17 year olds will increase by 8 pence to £3.87 per hour
- the apprentice rate will increase by 57 pence to £3.30 per hour.

Employers also need to be aware that from April 2016, the government will introduce a new mandatory National Living Wage (NLW) for workers aged 25 and above. This will initially be set at £7.20 which is a 50p increase in the adult rate of NMW coming into force in October 2015. This represents an increase of in excess of £1,200 per annum in earnings for a full-time worker on the current NMW.

The NMW will continue to apply for those aged under 25. The government has issued further details of the new NLW policy.

Penalties

Penalties may be levied on employers where HMRC believe underpayments have occurred and HMRC may 'name and shame' non-compliant employers.
Please contact us if you would like help with payroll issues.

ATED UPDATED PROCEDURES

Since 2013 a range of measures have been introduced to discourage the holding of residential property in the UK via companies, partnerships and collective investment schemes. In summary, these measures are:

- Stamp Duty Land Tax (SDLT) is payable at 15% on the acquisition on or after 20 March 2014 of properties costing more than £500,000
- an Annual Tax on Dwellings (ATED) applies at a fixed amount depending on value and
- Capital gains tax (CGT) at 28% is payable on a proportion of gains for the period that the property has been subject to ATED.

There are specific reliefs and exemptions for certain types of properties.

Changes in limits

Prior to 1 April 2015 the lower property value threshold for ATED was a value of more than £2m on 1 April 2012, or at acquisition, if later. With effect from 1 April 2015, residential properties valued at more than £1m and up to £2m on 1 April 2012, or at acquisition if later, were brought into the charge.

From 1 April 2016 another new valuation band comes into effect for properties valued at more than £500,000 but less than £1 million.

The threshold for ATED-related CGT disposal consideration has also reduced from £2m to £1m from 6 April 2015 and will further reduce to £500,000 from 6 April 2016.

ATED Procedures

ATED is reported and the tax paid through an annual return. The return periods run from 1 April to 31 March each year.

Normally an ATED return must be made within 30 days of the date on which the property first comes within the charge to ATED for any chargeable period. Where the property is within the scope of ATED on 1 April each year, the return must be filed by 30 April in the year of charge. Payment of the tax is due with the return.

There is a special rule for properties coming within the scope of ATED from 1 April 2015 under the lower threshold of £1m detailed above. The rule is that returns for the chargeable period beginning 1 April 2015 must be filed by 1 October 2015 if the property was held on 1 April 2015 or within 30 days of acquisition if this is later. Payment of the tax is due 31 October 2015.

The chargeable person must submit an ATED return for any property that is within the scope of ATED for the relevant chargeable period. There are reliefs available which may reduce the liability in part or to zero. However, all claims for reliefs must be made in a new 'relief declaration return' and these new returns to claim relief have now been made available.

Returns for properties falling within the lower band of £500,000 are due for the chargeable period 1 April 2016 to 31 March 2017. The normal filing dates apply to properties within this new band. For example, if you hold a property valued at more than £500,000 on 1 April 2016, you must file your return and pay the tax by 30 April 2016.

Returns

In addition, a new 'relief declaration return' is introduced. Broadly, for each type of ATED relief being claimed, the company can submit a relief declaration return stating that a relief is being claimed in respect of one or more properties held at that time. No details are required of the individual properties or the number of properties eligible. Where a property is acquired in-year which also qualifies for the same type of relief, the existing return is treated as also having been made in respect of that property.

A normal ATED return will still be required in respect of any property which does not qualify or ceases to qualify for a relief i.e. where tax is due. ATED and the reliefs available are a complex area. Please contact us if you would like specific advice.

HMRC TARGETS WEALTHY 'TAX CHEATS' IN SCOTLAND

A taskforce which aims to tackle wealthy 'tax cheats' who are living beyond their means in Scotland has been launched by HMRC.

HMRC is identifying individuals with 'badges of wealth' such as large houses, investments, aeroplanes, boats and undeclared offshore bank accounts which are not in keeping with the information they report to HMRC.

HMRC expects the taskforce to recover nearly £4.5million. It will bring together specialist officers from across HMRC to identify wealth indicators and cross reference them with the data HMRC holds about their owners.

HMRC's Michael Connolly, HMRC Taskforce Lead in Scotland, said:

'HMRC's intelligence shows that people being targeted by this taskforce have no intention of playing by the rules. They are deliberately failing to declare all their income to HMRC in a crude attempt to line their own pockets, and they will be investigated.

As a result of this behaviour, they could end up facing a heavy fine or even a criminal conviction. Those who pay the tax they are supposed to have nothing to worry about.

Using information we hold, we can target people whose lifestyle does not reflect the tax they are paying. It's not fair that a small minority are living millionaire lifestyles as a result of not paying the tax they owe.'

ADVISORY FUEL RATES FOR COMPANY CARS

New company car advisory fuel rates have been published which took effect from 1 September 2015. Due to the reduction in fuel prices many rates have reduced this quarter so please take care to update your expenses payments. However, the guidance states: 'You can use the previous rates for up to one month from the date the new rates apply'. The rates only apply to employees using a company car.

The advisory fuel rates for journeys undertaken on or after 1 September 2015 are:

Engine size	**Petrol**
1400cc or less	11p
1401cc - 2000cc	14p
Over 2000cc	21p

Engine size	**LPG**
1400cc or less	7p
1401cc - 2000cc	9p
Over 2000cc	14p

Engine size	**Diesel**
1600cc or less	9p
1601cc - 2000cc	11p
Over 2000cc	13p

Other points to be aware of about the advisory fuel rates:

- Employers do not need a dispensation to use these rates. Employees driving employer provided cars are not entitled to use these rates to claim tax relief if employers reimburse them at lower rates. Such claims should be based on the actual costs incurred.
- The advisory rates are not binding where an employer can demonstrate that the cost of business travel in employer provided cars is higher than the guideline mileage rates. The higher cost would need to be agreed with HMRC under a dispensation.

If you would like to discuss your car policy, please contact us.

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