

## CONTENTS

- [Brexit Update - What now for businesses that trade with the EU?](#)
- [Becoming a more environmentally friendly business](#)
- [Staff summer parties can be tax free benefit](#)
- [Using a PAYE settlement agreement to pay some of your employee's tax](#)
- [But not travel costs for non-executive directors in public sector](#)
- [When is a van not a van?](#)
- [Certain vans are exempt from income tax](#)
- [Income tax definition of a 'goods vehicle'](#)
- [Capital allowances definition of a 'motor car'](#)
- [VAT Definition of a 'motor car'](#)
- [CGT spotlight](#)
- [Inheritance tax spotlight](#)
- [VAT spotlight](#)
- [Pension spotlight](#)
- [Off payroll working rules going ahead](#)
- ['Small' employers excepted](#)
- [Making school holidays easier with tax free childcare](#)
- [Website](#)

## BREXIT UPDATE—WHAT NOW FOR BUSINESSES THAT TRADE WITH THE EU?

“There is still uncertainty around what Brexit will mean and planning for a “No Deal” scenario seems sensible right now. Businesses that buy and sell from the EU should have contingency plans in place which will need to be flexible to cope with a variety of possible outcomes. If a ‘No Deal’ happens after October 2019 here are some of the areas you should consider”.

### Movement of goods

Customs declarations will need to be made and the UK is implementing a new electronic customs declaration system for businesses, so check if your systems and processes are up to scratch. UK businesses will need a UK Economic Operator Registration and Identification (EORI) number and you can find the forms on the Gov.uk website, Brexit section: <https://www.gov.uk/government/brexit>

You may also need an agent to help with import / export declarations as you would for trading outside the EU. Check whether you need additional information from your carrier. Importers can register for Transitional Simplified Procedures (TSP) deferring declarations and paying duty at the border. More on this on page 3, and there is HMRC guidance on the new electronic customs system in the Brexit section on the Gov.uk website (link as above).

An essential exercise for all businesses is Supply Chain Mapping - knowing where inputs come from and what product category they fall into can help assess potential tariffs. For businesses that only exported to the EU this will be new and could be time consuming. Further guidance can be found in the “Trade Topics” section of the World Trade Organization (WTO) website: <https://www.wto.org/index.htm>.

The EU Tariffs can be found at:

<http://madb.europa.eu/madb/euTariffs.htm>

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## BREXIT UPDATE—WHAT NOW FOR BUSINESSES THAT TRADE WITH THE EU?

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### Product compliance

UK product standards and regulations will be aligned to the EU at the point of exit, however in the event of “No Deal” then UK assessment and certification arrangements could cease to be recognised by the EU. See the Brexit section of the Gov.uk website for further guidance.

### Business contracts and employees

If you have contracts with EU companies these may need to be redrafted to clarify the terms for trade, including VAT changes. If your business employs EU nationals then they should register for settled status. You will need to track the nationality status of employees going forward to ensure compliance with immigration rules and regulations.

### Summary

Whether there is a “No Deal”, a brief delay in the UK’s departure and a “deal” or a longer period of transition we advise all businesses to research all scenarios and “plan for the worst and hope for the best”.

**We have a more comprehensive “no deal” Brexit planning checklist (updated October 2019) available for clients which is available on our [website](#).**

**We also attach a copy to this newsletter for ease of reference.**

## BECOMING A MORE ENVIRONMENTALLY FRIENDLY BUSINESS



There is a general increase in environmental awareness and businesses are expected to play a part in the drive for reduced emissions. Environmental issues have moved to the top of the agenda since recent climate change demonstrations by people across the world as part of the “extinction rebellion”. This included protests involving thousands of people across London.

All businesses, regardless of their size, have a part to play when it comes to reducing emissions, recycling and reducing waste. Society is becoming increasingly focused on environmental issues and if businesses want to attract and retain the best talent, they need to move with the times and get involved.

### Do a waste audit

Before you start creating plans to reduce waste, you need to get a sense of what's in your firm's waste stream. By conducting a simple audit of waste across your business, you can identify the main areas that need attention and create a strategy to start tackling the biggest issues. Some waste management companies offer a service where they will assess your firm's waste output and create a report, which you can use as a starting point for your waste-reduction strategy.

### Printing-related waste

Most businesses produce a lot of paper from their printers. Very often, this ends up being shredded. To reduce your paper-related waste, start by encouraging your team to read emails on screen rather than print them. Where documents do need to be printed, take actions such as setting your printer's default settings to double-sided to eliminate as much waste as possible.

### Food-related waste

Plastic or paper cups are another culprit in the office environment. By providing water fountains and encouraging employees to use refillable bottles or ceramic cups, you can drastically reduce the amount of waste produced. If you provide paper plates, replace them with reusable ceramic plates.

### Encourage recycling

Introduce recycling bins to your office(s). Label them clearly and consider appointing a recycling company to collect and empty them regularly.

### Cut your electricity usage

Cutting your electricity usage not only reduces the firm's electricity bills but has the added benefit of being good for the environment. Simple changes like switching to low voltage LED light bulbs throughout your office and using sensors and timers to switch lights off when they are not in use can all contribute significantly to reducing your firm's carbon footprint.

### Training

Once you have created your waste reduction strategy, it's important to invest time in sharing the strategy with your team in order to reduce waste company-wide.



## A STAFF SUMMER PARTY CAN BE A TAX-FREE BENEFIT

Your organisation may have an annual Christmas party for staff, but the tax rules also allow staff parties at other times of the year which are a tax-free benefit if certain conditions are satisfied.

The exemption applies to an annual party (for example, a Christmas party), or similar annual function (for example, a summer barbecue), provided for employees and is available to all employees or available to all employees at that location, where the employer has more than one location.

If the employer provides two or more annual parties or functions, no tax charge arises in respect of the party, or parties, for which cost(s) per head do not exceed £150 in aggregate. For each function the cost per head should be calculated. The cost per head of subsequent functions should be added. If the total cost per head goes over £150 then whichever functions best utilise the £150 are exempt, the other is taxable.

## USING A PAYE SETTLEMENT AGREEMENT TO PAY SOME OF YOUR EMPLOYEE'S TAX

PAYE settlement agreements (PSAs) are arrangements under which an employer can settle the income tax and National Insurance liabilities on benefits in kind and expenses payments provided to employees and officeholders.

Setting up a PSA avoids passing on an unexpected, and potentially demotivating, tax charge to employees. Where a PSA has been agreed with HMRC, this will obviate the need for any reporting on the individual's P11D.

The items that can be included in the PSA must meet one of three criteria: minor, irregular or impracticable to apply PAYE or apportion between the employees receiving the benefit.

Although reporting will eventually go online, applications for a PSA are currently made in writing to HMRC. The Revenue will then issue a P626 contract, which states that the employer will pay the tax and National Insurance liability on agreed benefits.

## BUT NOT TRAVEL COSTS FOR NON-EXECUTIVE DIRECTORS IN PUBLIC SECTOR

Until recently, HMRC allowed taxable travel expenses to be included in public sector PSAs in respect of normal commuting costs for Non-Executive Directors (NED). The Department of Business (BEIS) wrote to the bodies it oversees on 30 May 2019 instructing them that any payments for commuting made to non-executives and other office holders, will now have to be paid through payroll, with tax and National Insurance deducted at source.

Note also that fees for NED roles in the public and private sectors are always required to be subject to tax and NI through the payroll, as this is income for the holding of an office so it cannot be invoiced and paid gross to the NED.

### WHEN IS A VAN NOT A VAN?

HMRC are being urged to provide clarity and consistency on the tax treatment of commercial vehicles such as VW Kombi Vans marketed as goods vehicles. The need for clarity follows the ruling in an important tax tribunal case involving "vans" provided to employees of Coca Cola.

The court has upheld the HMRC view that certain vehicles are not goods vehicles but motor cars for benefit in kind purposes. Consequently, the income tax and national insurance payable by employee and employer is significantly higher than if the vehicles had been classified as goods vehicles.

### CERTAIN VANS ARE EXEMPT FROM INCOME TAX

There is no assessable benefit in kind where the van is only used for business journeys or the private use of the vehicle is insignificant. Examples would include making a slight detour to pick up a newspaper on the way to work, or taking an old mattress or other rubbish to the tip once or twice a year.



## INCOME TAX DEFINITION OF A 'GOODS VEHICLE'

The income tax legislation defines a "goods vehicle" as *"a vehicle of a construction primarily suited for the conveyance of goods or burden of any description..."*

Although the VW Kombi vans failed this test the Tribunal held that Vauxhall Vivaro vans provided by Coca Cola did fall within the definition of goods vehicles!

It is understood that this case is due to be heard at the Court of Appeal which will provide legal precedent over the tax treatment. Until then it gives employers a dilemma as to how to report such vehicles on employees' form P11d and also whether the position in earlier years should be rectified. The tribunal had to seek evidence from automotive industry experts so how are employers expected to interpret the rules!

What is also particularly confusing, and thus difficult for businesses to deal with, is that the benefit in kind rules are not the same as the rules for capital allowances and VAT.

## CAPITAL ALLOWANCES DEFINITION OF 'MOTOR CAR'

The definition of a "motor car" for plant and machinery allowances purposes is a mechanically propelled vehicle except a vehicle:

- constructed in such a way that it is primarily suited for transporting goods of any sort, or
- of a type which is not commonly used as a private vehicle and is not suitable for use as a private vehicle.

## VAT DEFINITION OF 'MOTOR CAR'

For VAT purposes the definition of a motor car has been amended several times over the years. The current definition states: "Motor car" means any motor vehicle of a kind normally used on public roads which has three or more wheels and either:

- is constructed or adapted solely or mainly for the carriage of passengers; or
- has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows;

There are a number of exceptions to this rule notably vehicles constructed to carry a payload of one tonne or more. A common example would be a "double cab" pick-up such as a Mitsubishi L200 or Toyota Hilux.



## CAPITAL GAINS TAX PRIVATE RESIDENCE RELIEF CHANGES

Draft legislation to be included in the next Finance Bill will make important changes to the calculation of Capital Gains Tax (CGT) private residence relief. As announced in the Autumn 2018 Budget, there will be a reduction in the final period exemption to just 9 months and stricter conditions for letting relief to apply.

Currently where a property has been the taxpayer's main residence, the last 18 months of ownership counts as a period of deemed occupation. This will be reduced to just 9 months for disposals on or after 6 April 2020. It is understood that this is being introduced to counteract "second home flipping" allegedly used by MPs when they sell their London residences.

## CAPITAL GAINS TAX LETTING RELIEF RESTRICTION

Currently letting relief provides up to a £40,000 deduction in computing the capital gain on the disposal of a property that was at some time the taxpayer's main residence. The relief is the lesser of £40,000, the gain attributable to the let period, and the amount of private residence relief. For a couple this could potentially exempt up to £80,000 of the gain from CGT.

The draft legislation will limit letting relief to those situations where the owner remains in shared occupancy with the tenant, i.e. has lodgers living in the house.

If you were hoping to take advantage of letting relief on the sale of a property, you might want to consider disposing of the property before 6 April 2020 to take advantage of the current rules. Contact us for advice in this area as we can estimate the additional tax that might be due following the withdrawal of this generous relief.

## NO TAX FREE CAPITAL GAINS UPLIFT ON DEATH

Although the The Office of Tax Simplification (OTS) were tasked with simplifying inheritance tax, they also considered the interaction with CGT as many asset transfers potentially have both CGT and IHT implications. Currently there is no CGT on assets transferred on death and the recipient inherits the asset at its market value.

It has been suggested that the capital gains tax uplift on death distorts decision making relating to assets that benefit from an exemption from Inheritance Tax. Where an individual holds such an asset that has risen in value, and is considering transferring it during their life, they are often advised to retain it until death rather than giving it away during lifetime, because of the tax benefits.

Where a business is retained until death, any potential capital gains are wiped out and there is no Inheritance Tax to pay. This could lead to an asset being retained rather than being transferred to the next generation at the time that is right for the business.

We will again monitor the progress of this proposed change as it is likely to have significant implications on family business succession planning.



## INHERITANCE TAX TO BE SIMPLIFIED

“The Office of Tax Simplification (OTS) have undertaken a detailed review of Inheritance Tax (IHT), which is perceived by many as a complicated tax. The government normally takes account of OTS recommendations and their report is likely to lead to future changes to the rules. We will keep you posted as the changes may necessitate amending your will or further planning to pass on your wealth.

There are also numerous misconceptions about how the tax operates, particularly in connection with gifts during someone’s lifetime. One of the proposed changes is to shorten the period for lifetime gifts to be exempt from 7 to 5 years. The OTS also recommended replacing the current £3,000 annual allowance, marriage allowances and the exemption for regular gifts out of income with a £25,000 personal allowance each year.

## INHERITANCE TAX RELIEF FOR BUSINESSES & FARMS

There is currently a very generous 100% relief from inheritance tax for passing on businesses and farm land during lifetime and on death. The rationale for Business Property Relief (BPR) and Agricultural Property Relief (APR) is to enable businesses to be passed on without the need to sell off assets to pay the IHT due on the transfer.

Currently if a business is wholly or mainly for the purpose of investment, then it will not be eligible for BPR. This is not always straightforward to determine. Many estates include both trading and non-trading business assets, and establishing whether this test is met can be difficult to establish. The ‘wholly or mainly’ test is generally considered to be a greater than 50% test and The Office of Tax Simplification (OTS) are suggesting that the test should be aligned with the much stricter 80:20 test that applies for Capital Gains Tax (CGT) gift of business asset holdover and entrepreneurs’ relief. If introduced many more business transfers would be liable to IHT.

On the positive side the OTS have recommended that IHT business property relief should be extended to include Furnished Holiday Lettings aligning the tax treatment with that of Income Tax and CGT where they are treated as “trading” providing that certain conditions are met.



## VAT Spotlight...

### COMPANY OFFICERS JOINTLY AND SEVERALLY LIABLE FOR VAT PENALTY

The decision in a recent tax tribunal case reminds us that directors and other company officers may be personally liable for VAT penalties of their company. The recent case involved a penalty for late registration for VAT where the threshold had been exceeded.

Three conditions must be satisfied before the liability for a penalty payable by the company can be imposed on an individual:

- A penalty must be payable by the company for a deliberate failure.
- The individual on whom HMRC seek to impose liability must be an “officer” of the company
- The deliberate failure must be attributable to that officer.



## Pension Spotlight...

### GOVERNMENT U-TURN ON PENSION TAX FOR DOCTORS AND OTHERS?

In earlier newsletters we reported that hospital doctors and GPs were lobbying the government to amend the pension tax rules as the current system of restricting tax relief on pension contributions means many doctors paying almost all of the extra salary back in tax if they take on additional responsibilities or work additional shifts.



This issue does not just affect doctors. From 2016/17 those taxpayers with 'adjusted income' over £150,000 and 'threshold income' over £110,000 receive a tapered annual allowance. This taper potentially reduces the normal annual pension allowance from £40,000 down to a minimum of £10,000 which may result in tax payable on excess contributions. As mentioned in earlier newsletters we can assist you in computing the potential liability.

The government have recently announced that it would consult on allowing senior NHS staff to select their level of pension accrual at the start of the year, to give them more pension capacity to take on additional work without breaching their annual allowance.

The Treasury has also agreed to reconsider the "taper", which restricts pension tax relief, not just for NHS workers but across the public sector. But what about the private sector! Look out for possible changes to pension tax relief in the Autumn Budget.

## OFF-PAYROLL WORKING RULES GOING AHEAD

The draft Finance Bill clauses issued for consultation on 11 July include legislation to extend the “off-payroll” working rules to the private sector from 6 April 2020. These changes will have significant implications for workers providing their services through personal service companies and also the end user organisations that engage such workers.

End users will be required to determine whether the worker would have been an employee if directly engaged and hence the new rules apply to the services provided by the worker via his or her personal service company. This will be a significant additional administrative burden on the large and medium-sized businesses who will be required to operate the new rules. The current CEST (Check Employment Status for Tax) online tool would be improved before the proposed start date.

### ‘SMALL’ EMPLOYERS EXCEPTED

“Small” businesses will be outside of the new obligations and services supplied to such organisations will continue to be dealt with under the current IR35 rules, with the worker and his or her personal service company effectively self-assessing whether the rules apply to that particular engagement.

The draft Finance Bill confirms that the definition of “small” is linked to the Companies Act 2006 definition.

This is where the business satisfies two or more of the following conditions:

- Annual turnover of £10.2 million or less
- Balance Sheet total of £5.1 million or less
- 50 employees or less

There will be an obligation to pass details of the status determination down the labour supply chain. The liability for tax and national insurance will be the responsibility of the entity, paying the personal service company. However, if HMRC are unable to collect the tax from that entity, the liability will pass up the labour supply chain, thus encouraging those entities further up the supply chain to carry out due diligence.

**Please contact us if you would like to discuss how the proposed changes are likely to impact on your business.**

## MAKING SCHOOL HOLIDAYS EASIER WITH TAX-FREE CHILDCARE

Did you know there is a government scheme available that can help contribute towards childcare costs which may mean fewer of your employees will need time off at the same time this summer.

Tax-Free Childcare is a scheme available to working parents with children from 0-11 years and many parents are not taking advantage of the scheme.

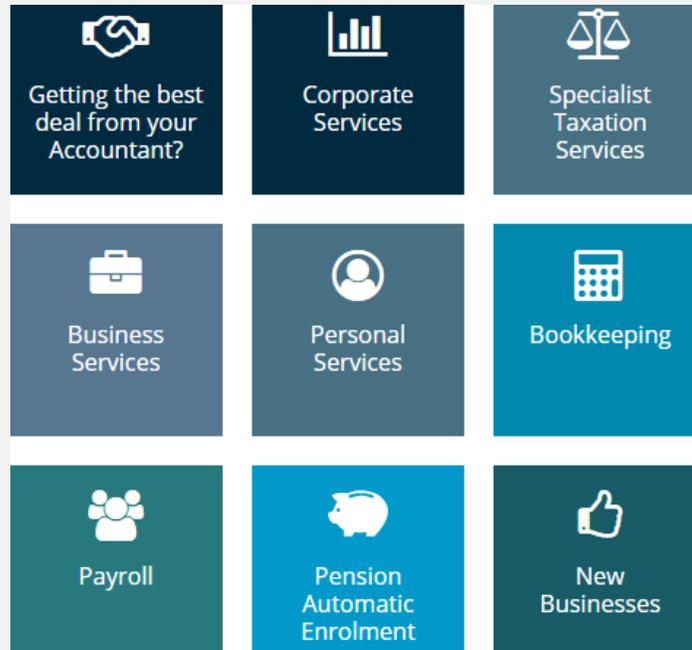
HMRC would thus welcome help from employers in changing that, so please tell your employees about Tax-Free Childcare and how it can reduce their childcare costs.

Eligible parents can get up to £2,000 per child, per year to spend on qualifying childcare (effectively a 25% top up).

Note that Tax-Free Childcare isn't just for everyday childcare costs, such as childminders and nurseries, parents can also use it to pay towards the cost of:

- after school clubs
- summer camps
- school holiday activities

## MNA WEBSITE



Remember we have a comprehensive website at <https://www.marstrandnash.com> which contains full details of all of our services, as well as:-

- ⇒ Latest accounts and tax news
- ⇒ Downloads section which includes all our newsletters
- ⇒ Filing deadlines pages
- ⇒ Current tax rates and information pages

Plus much more!