The inheritance tax implications of gifts

Research carried out by the National Centre for Social Research (NCSR) and the Institute for Fiscal Studies (IFS) recently found that there is a 'staggering lack of awareness' of the inheritance tax (IHT) implications of making a financial gift. Below we outline the gifting rules and the IHT implications.

Annual £3,000 exemption

Every year, an individual may give gifts of up to £3,000 without being charged any IHT. Any unused amount may be carried forward for one year only.

Other exemptions

Other exemptions include giving as many gifts as you want of up to £250 per person per tax year. Gifts between spouses/civil partners are exempt from IHT, and on death, a spouse can pass on their unused Nil-Rate Band (currently at £325,000 each).

Wedding gifts of up to £5,000 made to children are exempt from IHT; gifts of up to £2,500 to grandchildren or great-grandchildren are exempt; and up to £1,000 is exempt if the gift is given to any other relative or friend. Gifts to registered charities are also exempt, as well as those to political parties, under certain conditions.

Gifts given to help with family maintenance are also exempt from IHT. These can be in the form of a transfer of property on divorce; gifts to children aged under 18 or in full-time education; or gifts towards the living costs of a dependent.

Normal expenditure out of income is outside the scope of IHT. If the individual can give away some of their income without it adversely affecting their standard of living, then any such amount falls outside IHT. If standard of living is affected, such gifts would be deemed as capital as thus reliant on the above rules.

Potentially Exempt Transfers

Potentially Exempt Transfers (PETs) are, as the name says, transfers or gifts that may potentially be exempt depending on when the gift was given. In this case, a person may choose to give a gift up to the IHT threshold without incurring any IHT. You may, however, need to take into consideration other taxes, such as capital gains tax.

If the donor dies within seven years of making the large gift, then IHT will be due. The amount of IHT due will be dependent on the number of years that have passed since giving the gift and the donor's death.

Gifts made within three to seven years before a donor's death are taxed on a sliding scale known as 'taper relief'. This means the effective IHT rate for three to four years between gifting and death is 32%; for four to five years it's 24%; for five to six years it is 16%; and between six and seven years it will be 8%. After seven years, no IHT will be due on the gift.

The IHT threshold

The IHT threshold (or Nil-Rate Band) for an individual is £325,000, and potentially £650,000 for married couples/civil partners upon the second death. An additional Residence Nil-Rate Band (RNRB) is available for estates which include residential properties. Any unused RNRB can be transferred between spouses upon the first death. From 6 April 2019, the RNRB is £150,000, rising to £175,000 from 6 April 2020, and is available when the residential property is bequeathed to a direct descendent.

There may be scope for substantial savings when planning your estate by giving gifts, so please do get in touch.

Considering the National Minimum Wage

Getting minimum wage obligations right can be challenging for employers, as indicated by the findings of a recent report by the Low Pay Commission. The report found considerable levels of minimum wage underpayment. Overall, the report revealed that underpayment has been steadily increasing since the introduction of the National Living Wage in 2016. Here, we provide an overview of the minimum wage.

Overview

The minimum wage is paid at an hourly rate, with payment bands depending on age, and special provisions applying to apprentices. The National Living Wage (NLW) is the minimum wage for those aged 25 and over, whilst the National Minimum Wage (NMW) applies to those above school leaving age and individuals aged under 25. For convenience, we refer to 'minimum wage' to cover both the NLW and the NMW.

Current rates

Minimum wage rate	Hourly rate from 1 April 2019
NLW	£8.21
21-24 year-old rate	£7.70
18-20 year-old rate	£6.15
16-17 year-old rate	£4.35
Apprentice rate	£3.90
Accommodation Offset	£7.55 per day: £52.85 per week

Minimum wage rates usually change each April.

To help employers check their minimum wage calculations, the government has provided a minimum wage calculator: bit.ly/2bsC9XA. Failure to pay the minimum wage correctly can lead to penalties.

What counts as pay?

Incentive payments and bonus payments, for example, count as pay for minimum wage purposes. Loans, advances of wages, pension payments and rewards under staff suggestion schemes do not. Neither do tips and gratuities. If someone incurs expenses in connection with their employment and is not reimbursed by the employer, then the expense reduces their pay for minimum wage purposes. Consider uniforms: where a salary sacrifice scheme is operated, employers need to look at the figure for pay after sacrifice to assess minimum wage compliance.

What counts as working time?

HMRC reports errors around failure to pay travel time, and whilst staff do not need to be paid for home-to-work travel time, there are some periods of travel time for which there is a minimum wage liability. These include travelling from one work assignment to another, or waiting to collect goods.

Paying apprentices

HMRC reports many errors in this area. To qualify as an apprentice, there must be an apprenticeship contract and an element of structured training. The apprenticeship rate applies only if an apprentice is under 19, or over 19 and in the first year of their apprenticeship.

Further help

General information for employers can be found on the gov.uk site: bit.ly/1DMD7Vd, with more detailed guidance in HMRC's manuals: bit.ly/2sCnLmM. The minimum wage is a complex area, and we have only been able to touch on key points here.

We would be only too pleased to provide any further assistance you may need.

Analysing the changes to VAT and construction

A major change in the way that VAT is accounted for in the building and construction sector takes effect later this year.

The VAT domestic reverse charge for building and construction services will apply from 1 October 2019. This is an anti-fraud measure – an administrative change, impacting invoicing and VAT return procedures. With a reverse charge, any VAT-registered recipient of services accounts for VAT rather than the supplier.

This means that the supplier – here, a VAT-registered subcontractor – will state on its invoice that supplies are subject to the reverse charge. The contractor then uses its VAT return to account for output VAT on the supplies received, instead of paying output VAT to the supplier. Subject to normal VAT rules, the contractor can then reclaim VAT on the supplies received as input tax. In most cases, this will leave no net tax payable on the transaction. Where there is an 'end user', it will be expected to provide notification of end user status to suppliers. This signals that suppliers should charge VAT in the usual way.

The charge affects VAT-registered businesses where payments are required to be reported through the Construction Industry Scheme (CIS). It will be used along the supply chain, until the recipient is no longer a VAT-registered business making an onward supply of specified construction services. The rules call this an 'end user'. The reverse charge will not affect zero-rated supplies. It will not apply to services provided to end users. Neither will the reverse charge apply in some circumstances to 'intermediary suppliers that are connected or linked to end users', for example landlords and tenants.

The reverse charge covers 'specified services' – essentially, construction services as defined for CIS purposes. Where services – such as those of architects, surveyors and some consultants – are supplied on their own, they are not covered by the reverse charge. If provided along with supplies subject to the charge, however, the whole supply will be subject to the charge. The reverse charge also includes goods, where supplied with specified services.

HMRC has issued technical guidance: bit.ly/2WHQ5R2, and we recommend planning for change now – for example, by adapting accounting and IT systems to cope. You may also need to consider the impact that the reverse charge will have on business cashflow.

Please don't hesitate to contact us for further advice.

An update on holiday pay

The government has recently been circulating adverts promoting the holiday pay awareness campaign. 'Holiday pay: it comes with the job' is part of the modern Industrial Strategy, which aims to give employers and workers a better understanding of both workplace rights and responsibilities.

Recent research suggests some 1.8 million people currently do not receive the holiday pay to which they are entitled, and means employers are potentially underpaying their workforce by £1.8 billion each year. Those working non-standard hours or in less traditional roles are particularly high-risk categories.

For employers, the issue is about correctly determining employment status, and understanding the rights pertaining to the various employment categories. For tax purposes, there are just two employment categories: employee and self-employed. For employment law purposes, there are three: employee, self-employed and 'worker'. Holiday pay entitlement extends to not just full-time staff, but part-time and zero-hours staff, so it is important employers appreciate this means not just employees, but those in the 'worker' category as well.

Relevant calculations are based on the number of days or hours worked, and how someone is paid. Any additional arrangements made with the employer also need to be factored in. The underlying concept is that pay received on holiday should mirror what would have been earned at work.

Holiday entitlement starts to build up from the first day of work, and probationary periods, periods of sick leave, maternity, paternity or adoption leave also count towards it. A week's pay is due for each week of statutory holiday leave, and most workers are entitled to 5.6 weeks' paid holiday each year.

Where someone gets a regular monthly salary with non-varying hours and pay, no separate holiday pay calculation is needed. These staff simply get the usual monthly payment for any month which includes holiday.

Working out what constitutes a 'week's' pay for shift workers or people not working fixed hours is more complicated. Here calculations involve establishing average hours or average pay, looking back over the last 12 paid weeks of work. A 'week' usually means seven days running from Sunday to Saturday, but there can be exceptions to this. The 12-week period is known as the 'holiday pay reference' period. Note that from 6 April 2020, the holiday pay reference period increases from 12 weeks to 52 weeks.

Care is needed where there are workers on short contracts, or where temporary or agency workers are involved. If holiday entitlement has not been taken by the time such workers leave, they are due payment in lieu of untaken holiday. There is a holiday entitlement calculator for employers to use: bit.ly/1picPiR. Updated guidance regarding workers with irregular hours can be found here: bit.ly/2JAEa6j. This includes details of case law regarding holiday pay, and potential problem areas where EU and UK legislation interact.

Should you have any questions on holiday pay and payroll, we would be delighted to assist you.

Business and Tax Round-up

HMRC introduces new system to tackle scam phone calls

HMRC has introduced a new system designed to prevent criminals from spoofing government helpline phone numbers.

According to HMRC, criminals often use 'official' helpline numbers to convince taxpayers to part with large sums of money. In 2018, HMRC received 104,774 reports of so-called 'phone scams' – a significant rise when compared to 2017's figure of 7,778.

The new system, which was developed in partnership with the telecommunications industry and regulator Ofcom, will help to prevent fraudsters from using official-looking phone numbers, and will thereby assist taxpayers in recognising genuine HMRC helpline numbers.

Commenting on the issue, Jesse Norman, Financial Secretary to the Treasury, said: 'This is a huge step forward in the fight against phone fraud.

'Vigilance will always be important, but this is a significant blow to the phone cheats.'

The implementation of the new system is just one part of HMRC's plan to safeguard taxpayers from fraud. From June, individuals seeking to pay taxes over the phone will be required to enter their payment details using their phone's keypad, as opposed to giving them verbally.

OTS calls for review of PAYE system

In a new report, the Office of Tax Simplification (OTS) has called for the Pay as You Earn (PAYE) system to be reviewed, to ensure tax agents can 'see relevant client information' and 'access a number of key services'.

The report suggested that tax agents 'don't always have full access to their clients' PAYE records'. In addition, the current PAYE system 'does not handle the fluidity of the modern workplace very well', according to the OTS, especially in relation to changes of job mid-month, multiple jobs, concurrent employment and self-employment.

Commenting on the report, Bill Dodwell, Tax Director at the OTS, said: 'It is time for a new review of PAYE, to look at areas where the inputs from employers do not work well and how they are processed by HMRC to update tax codes and the new personal tax accounts. The review needs to update PAYE for modern working patterns.'

The report also proposes creating a 'PAYE-like experience' for the self-employed, in order to allow them to set money aside to pay future tax liabilities.

Reminders for your diary

August 2019

- **2** Deadline for submitting P46(Car) for employees whose car/fuel benefits changed during the quarter to 5 July 2019.
- **7** Deadline to file first VAT return under MTD rules for the quarter ending 30 June 2019.
- **19** PAYE, Student loan and CIS deductions are due for the month to 5 August 2019.

September 2019

- **1** New Advisory Fuel Rates (AFR) for company car users apply from today.
- **7** Deadline to file first VAT return under MTD rules for the quarter ending 31 July 2019.
- **19** PAYE, Student loan and CIS deductions are due for the month to 5 September 2019.
- **30** End of CT61 quarterly period.

October 2019

- **1** Due date for payment of Corporation Tax for period ended 31 December 2018.
- **5** Deadline for notifying HMRC of new sources of taxable income or gains or liability to the High Income Child Benefit Charge for 2018/19 if no tax return has been issued.
- **7** Deadline to file first VAT return under MTD rules for the quarter ending 31 August 2019.
- **14** Due date for income tax for the CT61 quarter to 30 September 2019.
- **19** Tax and NICs due under a 2018/19 PAYE Settlement Agreement.

  PAYE, Student loan and CIS deductions are due for the month to 5 October 2019.

  PAYE quarterly payments are due for small employers for the pay periods 6 July 2019 to 5 October 2019.
- **31** Deadline for submitting 'paper' 2018/19 self assessment returns.

Green & Co Accountants and Tax Advisors
Pembroke House, Llantarnam Park Way, Cwmbran. NP44 3AU
01633 871122 | mail@greenandco.com