Corporate Newsletter

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AUTUMN 2016 EDITION

Our Autumn newsletter looks to the future to consider key issues facing our clients in the coming few years.

Making Tax Digital (MTD) is considered to be one of the most fundamental changes to the UK tax system for many years and will impact all businesses and individuals. Our article explores some of the more practical considerations during this time of uncertainty.

More uncertainty prevails as we consider how Brexit (Britain leaving the EU) could impact the future of our current VAT system.

One area we can be more certain on is the impact of the new accounting standards (FRS102) now we have seen this implemented over the last few months. Our two articles on this topic look in depth at the impact on related party loans, a key change area, and also the corporation tax implications of changes in the accounting policies.

Payroll has been another key area for change, including changes in the treatment of termination payments, apprenticeships and salary sacrifice arrangements. With reporting requirements becoming ever more burdensome, we also explore reporting benefits through the payroll and the new gender pay reporting requirements that come into force next year.

CONTENTS	SECTION

RAWLINSON & HUNTER

1 The Digital Age - Practical considerations of Making Tax Digital

Whilst we eagerly await further news on this topic in the Autumn Statement later this year, one thing that is clear is that the digitisation of tax is happening - it is a matter of how and when Making Tax Digital ("MTD") will be implemented that is still up for debate.

For over twelve months there has been the scaremongering of the "end of the tax return". Whilst we have seen the successful implementation of digitisation in the accounting industry already, with VAT filing online now compulsory and monthly RTI submissions of payroll data, MTD is by far the widest impacting change with implications affecting all clients.

The intention of MTD, from the Government's perspective, is to reduce the burden for the taxpayer and to build a transparent and accessible tax system. An alternative thought is that this will reduce the burden on HM Revenue & Customs ("HMRC") by simplifying data collection, moving the onus onto the tax payer and enabling automatic data analysis. MTD will also enable easier identification of deliberate non-compliance, allowing a more targeted approach to tax investigations.

Whilst the world moves on and we all have to keep up with advances in technology and changes in legislation, the wider impact on work flows and organisation needs to be considered upfront.

The Government has indicated that the first level of businesses to be affected will be the self-employed and landlords, having to update HMRC with financial information concerning their businesses on a quarterly basis for income tax and national insurance purposes by 1 April 2018. Corporate entities will need to follow thereafter by 1 April 2020. There are some exemptions and opportunities for deferral, albeit these are few and far between.

The choice to target business with this major change is questionable, given that a number of small businesses may not keep regular accounting records themselves, nor use an accountant (especially if they are not VAT registered businesses). Such businesses have probably been used to collating a bag of receipts for the year end tax return process, potentially not having given the records a thought throughout the year.

Under MTD, these businesses will be forced to record and electronically report their finances on a quarterly basis to HMRC. It is understood that the summary data submitted can be on a cash basis (as opposed to an accruals basis, which may avoid the need for input from an accountant). After the four quarterly submissions, there would be a final year end submission which will need to include annual adjustments, such as accruals, stock and other adjustments if not performed on a quarterly basis.

It is promised that data submitted throughout the year can be corrected with no consequence, with the exception of VAT where there is already a penalty regime for errors.

Organising paperwork and recording transactions more regularly is not the only consideration here. How that paperwork is processed and reported is an important consideration. HMRC have indicated that the quarterly data will have to be reported using an online data submission, and therefore potentially using Excel spreadsheets may not suffice.

One immediate concern which HMRC are already looking into is how many businesses use Excel, often in conjunction with accounting software to produce the final output, because the accounting software does not have the required capabilities. A prime example of this would be partial exemption calculations for VAT purposes which the majority of accounting software packages cannot cope with.

For the smaller businesses which may loyally use Excel, or may not use any accounting software, having to then use an internet compatible software package to undertake reporting to HMRC is a potential concern. HMRC have indicated that there would be the provision of free software for this purpose. However, who this is available to and what capabilities it will have is still an unknown at this stage.

In the fullness of time it is anticipated that all such businesses will have access to accounting software that can scan transaction evidence (i.e. invoice copies) with automatic processing into the software for accounts and tax purposes, potentially reducing the administrative burden (and cost) of data processing and accounting.

The vision for MTD is to make life simpler! In doing so it is expected that the available software will provide useful prompts to notify users of errors, indicate what is/ is not a tax deductible expense as well as indicating possible reliefs and allowances.

HMRC will use the quarterly submissions to calculate estimates of taxes due, giving the option for businesses to make voluntary payments throughout the year (albeit understandably uptake of this option is expected to be low). Unless a business has relatively straight forward tax and accounting arrangements, these estimates are likely to be substantially different from the actual tax due, as calculated using the end of year submission. The actual due dates for payment of taxes will not at least at present change from the current deadlines.

It is likely there will be a requirement (from a practical perspective at least) to align both tax and VAT reporting quarters to the financial year end of a business. For sole traders, this may be 31 March and quarterly thereafter, as this will be a more practical date to apply rather than 5 April. Many corporate business already have 31 March or 31 December year ends. This will focus work to calendar quarters, potentially creating resourcing issues.

There is also already talk of removing the extra 7 day filing extension that is granted for the electronic filing of VAT returns. Therefore all reporting for the quarter end 31 March will be required by 30 April, for example.

Another concern is that by providing more information to HMRC on a more regular basis, is this opening up scope for inquiry and spot checks where the data provided does not meet the "norm"? This data is likely to form industry averages and enhance the already risk based measures to critically analyse information provided.

At present using the online VAT filing system, only the summary VAT return boxes are submitted which shows net sales, purchases and VAT. However it is expected under the new MTD system that additional VAT workings will also need to be submitted, such as providing a detailed listing of transactions. Unfortunately, there currently appears to be no scope to enter free text/supporting documents to explain, for example, any large variances from prior quarters.

Other more practical considerations could be the actual submission of data. Firstly security of data submission and potential for fraud and interception must be at the forefront of concerns and priorities for all software developers, as well as HMRC. Additionally the capability to submit data online should not be an automatic assumption. Whilst many people have a computer and connection to the internet, there are sections of the population who do not. There is also a generational aspect to consider here with many of the older generation not able to (or willing to) adapt to the digital age. These are real practical considerations that cannot be ignored.

In the interim, a small business could be faced with increased software costs, increased time and administration, and possibly the requirement to engage a bookkeeper/accountant throughout the year to keep the quarterly reporting up to date. HMRC have indicated they will consider the cost implications for such businesses, possibly offering financial support, tax reliefs and online training. We await to hear details of what this would entail.

Now HMRC's consultation phase has ended, it is hoped that any concerns, including those outlined in this article, will be properly considered and addressed to allow MTD to fulfil its objectives and be useful and beneficial to both HMRC and its users.

2 Brexiting the EU VAT system ?

Where are we ?

There is no certainty about the future impact of Britain leaving the EU. Will it be, so called, "hard Brexit" or "soft Brexit"? The only certainty is the uncertainty !

Whatever happens, we can confidently say that Brexit will not have any significant impact on VAT within the EU. However, we can speculate that there is likely to be a major impact on VAT in the UK. The difficulty we have is that the UK has voted on Brexit without any direction, plan or thought about the process of exiting the EU and, at present, no indication of how the UK will emerge from the exit discussions.

It is understandable that there is a belief that once the UK triggers Article 50, presumably still in March 2017, all will become clear within two years. One certainty is that, once Article 50 is triggered, there will be no immediate change. By triggering Article 50 there will be no change to the interpretation or operation of EU Directives in the EU and the UK will carry on following the EU VAT system until the UK's divorce from the EU is final.

The UK could well negotiate withdrawal from the EU within the two years of triggering Article 50 but, given all the complexities, it is possible the final withdrawal agreement will not be reached for a further four or five years. Therefore, until the UK exits the EU, the UK would still be bound by EU law. However, once Article 50 is triggered the UK would not be in a position to participate in any further discussions concerning the development of the EU.

Hard Brexit would technically allow the UK to abolish VAT. As VAT is the single largest tax receipts for the Exchequer, this is very unlikely. In all probability, the UK will retain a VAT regime and try to negotiate a VAT union with the EU, but is this something that the UK would want? It could be that the UK sees Brexit as an opportunity to break away from the EU system of VAT so that UK domestic VAT legislation cannot be influenced by EU VAT law. The prime example is of VAT avoidance. Currently, the UK follows the EU VAT anti-avoidance doctrine and by exiting the EU VAT system, the UK would be in a position to take a harder line and be able to introduce Secondary Legislation overnight to tighten up its powers to combat avoidance. Exiting the EU VAT system also allows the UK to vary its VAT rates and possibly simplify the VAT system by removing VAT exemptions and/or extending the zero rate. Hard Brexit would allow the UK to re-appraise and overhaul UK VAT.

Hard Brexit could deprive UK business the protection it has under the EU VAT system. Pre-Brexit, challenges by the UK tax authorities can be defended by use of, not only the UK domestic VAT legislation, but, EU Directives and even decisions of the European Court of Justice.

At present, those who advise on VAT find it rather difficult to give any practical advice on the effects of Brexit. Businesses registered for VAT are so diverse it is nigh on impossible to provide any certainty and especially to those operations that operate internationally.

Practical aspects of Brexit

Whether we have hard Brexit, soft Brexit or something in between, our current trading relationship with the EU is certain to change. Therefore, as a starting point, it would be useful to understand the practical effects of a hard Brexit, being a complete exit from the EU.

Hard Brexit would result in the UK being be unable to use the EU trade and customs arrangements. The UK would have to negotiate its own trade arrangements with the territories within the EU.

Once there is full exit from the EU, the UK authorities and the EU authorities will have to reintroduce import and export systems and processes for trade between the UK and the EU. This is likely to increase the cost of clearing goods between the UK and EU and certain third countries until the UK negotiates its own trading arrangements. Along with this are the logistics with possible delays and additional transport costs, whilst awaiting clearance through customs both in the UK and EU. Supplies of UK goods and services to EU customers will be treated the same way as goods and services currently being sourced from non EU countries, e.g. USA.

Certain industries that trade in high value goods and have EU based customers may find that a hard Brexit will prove a fillip to their business due to the arbitrage VAT rate .

What is good for one industry is not necessarily good for other industries. Despite recent announcements of commitment to the UK by car manufacturers currently established in the UK , there must be a risk that they could well re-establish themselves in the EU, or at least make future investments in the EU, if we have hard Brexit to avoid any trading tariffs imposed. This in turn could seriously damage UK plc.

3 In Focus: Impact of the new accounting standards and related party loans

In our Summer newsletter we briefly touched upon some of the most significant issues arising from the adoption of Financial Reporting Standard ("FRS") 101 and 102 by large and medium sized private entities. The same issues will affect the majority of small companies when they adopt FRS 102 or FRS 102 Section 1A for accounting periods beginning on or after 1 January 2016.

In this article we consider the requirement to adjust non-current financial assets and liabilities, which do not incur market rates of interest, to their fair values. This is particularly relevant for related party loans, which are often repayable in more than one year and incur zero or a nominal rate of interest. Hence we have focussed on such loans below.

Measurement

Under previous UK GAAP, such related party loans would be shown at cost (i.e. at the actual amount of the loan payable in the future), within either debtors or creditors due after more than one year in a company's balance sheet.

Under FRS 101 and 102, a company is required to measure such loans at their fair value (or, using the terms stated in FRS 101 / 102, "amortised cost using the effective interest method") within its balance sheet. In practice, this requires the company to value the "advantage" or "disadvantage", depending on whether it is the creditor (i.e. the borrower), or the debtor (i.e. the lender) it is receiving as a result of the non-market rate of interest payable or receivable. This element is recognised as a credit or debit to income or equity (see below for further details) and then amortised (or released) over the term of the loan as notional interest payable or receivable.

The "advantage" or "disadvantage" is valued by discounting future cash flows at a market rate of interest to reach their present value.

For example, for an interest-free loan of £50,000 repayable in five years' time, assuming a market rate of interest of 8%, the advantage receivable by the creditor company would be the difference between the actual cash flow of £50,000 in five years' time and the present value of that cash flow, calculated as follows:

$$\text{Present Value ("PV")} = \text{Cash Flow} \times \frac{1}{(1 + \text{Market Rate of Interest})^{n}}$$

where 'n' is the period in which the cash flow occurs.

$$\text{PV} = 50{,}000 \times \frac{1}{(1 + 8\%)^{5}}$$

$$= 34{,}029$$

Therefore the advantage is £15,971 (i.e. £50,000 - £34,029).

Accounting for the "advantage" or "disadvantage"

How the credit or debit arising from the "advantage" or "disadvantage" is accounted for depends on the relationship between the company and the related party.

In essence, if the related party is an owner of the company (i.e. a parent undertaking or shareholder), or acting on the instructions of such a party (i.e. a fellow subsidiary being directed by the parent undertaking), then the credit or debit arising from the "advantage" or "disadvantage" is treated as a capital contribution or distribution (i.e. a movement in equity) respectively.

If the related party has no ownership interest in the company (e.g. a fellow subsidiary undertaking not acting on instructions from a parent undertaking or a director who is not a shareholder), then the credit or debit arising from the "advantage" or "disadvantage" is treated as interest income or expense respectively.

Implications

The implications of the change in accounting for non-current related party loans which do not incur market rates of interest are significant. It can be seen above that the effect for a relatively small loan of £50,000 could be a £15,971 credit or debit to the profit and loss account or equity in the first year and then annual notional interest over the term of the loan totalling the same amount.

Therefore the effect could be far more serious for companies with related party loans running to many millions of pounds, especially where they also have external financing or employee remuneration schemes with covenants or terms which depend on the level of interest payable or the level of profit after interest.

Furthermore, as noted in the article below, the tax implications of this change are complex and may lead to timing differences in the payment of tax.

Options available to companies

There are a number of options available to companies to deal with the change of accounting for non-current related party loans which do not incur market rates of interest as follows:

1. Fair value the loan. This will require the company to consider the expected repayment period(s) for the loan, the level of a market rate of interest applicable to the company and then discount the future cash flows accordingly, as detailed above. As mentioned, this could lead to significant additional accounting entries to the company's equity and/or profit and loss account in the year of transition to FRS 101 / 102 and in subsequent years.

2. Amend the terms of the related party loan. There will be no need to fair value a related party loan in either of the following circumstances:

    a. The loan incurs a market rate of interest. In this scenario, the effect of discounting the loan at a market rate of interest is completely mitigated by the actual interest that will be incurred on the loan (at a market rate) and hence no fair value calculation will be required.

    b. The loan is repayable on demand. In this scenario, as the repayment term is in effect immediate, there is no term over which to discount the loan at a market rate of interest and hence the loan is already stated at its present value.

       It should be noted that this option could result in the company having a going concern issue where a significant loan payable is now repayable on demand, which would need to be considered and resolved, if applicable.

3. Settle the loan. Settlement could take the form of repayment, waiver or capitalisation as equity of the company.

The most appropriate course of action for each company will depend on its circumstances and those of the related party. However, where available, options 2a, 2b and 3 above will generally result in more straightforward accounting and tax treatments.

When to take action

Most large and medium companies will already have transitioned to FRS 101 or 102 for their accounting periods beginning on or after 1 January 2015. Therefore, any action taken to amend the terms of a loan now is likely to be to corrective for the future rather than preventative retrospectively.

For small companies transitioning to FRS 102 or FRS 102 Section 1A for their accounting periods beginning on or after 1 January 2016, it may still be possible to amend the terms of loans such that the fair value accounting treatment required by FRS 102 can be avoided.

Specifically, although FRS 102 requires the comparative financial information to be restated using FRS 102 accounting treatments, where the loan terms have been amended before the balance sheet date of the comparative period, it is likely that the effect of fair valuing the loan up to the date of amending the loan terms would be immaterial and would, in any case, reverse before the year end.

4 Impact of changing accounting standards on tax

The introduction of FRS 102 has brought about significant changes to previous accounting treatment and practice as detailed above. These changes may significantly impact on companies' corporation tax returns, or even the actual corporation tax they are required to pay.

Overview

The change to FRS 102 is mandatory for medium or large entities for accounting periods beginning on or after 1 January 2015, and small entities will be required to adopt FRS 102 for accounting period starting on or after 1 January 2016.

As a consequence of FRS 102 the basis for calculating corporation tax will change. This is likely to result in increased volatility in the corporation tax charge, leading to real tax costs or tax savings for companies.

Where there is a change of accounting policy the adjustment required between the closing figure under the old policy and the opening balance under FRS 102 will generally be taxed in the first accounting period in which the new standard is adopted.

Intangible assets

All intangible assets are assumed to have a finite useful economic life, and if this cannot be estimated, it is assumed to be a maximum of 10 years. This may result in an accelerated tax deduction in the form of amortisation (although note that amortisation is no longer available for goodwill acquired from 8 July 2015).

It should be noted that there are special transitional rules for intangibles, and in the first accounting period it is possible for a company to elect to retain the status quo, in which case there is no revaluation of the intangibles. In these cases it may be worth considering a review of the useful economic life of goodwill, and potentially shortening it, if appropriate. However, HMRC may query the valuation and amortisation policy of such assets.

Alternatively, it is possible to disaggregate other intangibles from the goodwill figure and then either use the fair value of those assets at the transition date as the deemed cost, or use any previous GAAP revaluation as the deemed cost. However, the tax implications of these actions need to be considered carefully.

Financial instruments

The introduction of more fair value accounting for financial instruments may lead to increased volatility in taxable profits, since the default position is that the tax treatment follows the accounting treatment.

Where the instrument is a hedging relationship relating to, for example, currency, commodities, and debt and interest rate contracts, this volatility can potentially be mitigated if a company elects to apply the 'disregard regulations'. These broadly override the accounts fair value adjustments and operate to restore the old GAAP treatment. However, advice about the implications of this should be obtained.

Intragroup loans

For a non-market rate loan, which is not repayable on demand, the tax implications are complex and depend, broadly, on whether the loan is with a company or an individual, and also on the territory in which the company/individual making the loan resides for tax purposes. Accounting periods and the date of the loan are also relevant, since changes in treatment apply for tax purposes for accounting periods beginning on or after 1 January 2016 (Finance Act 2015) and on or after 1 April 2016 (Finance Act 2016).

Finance Act 2015 radically changed the taxation of loan relationships, notably, debits and credits not included in the Profit and Loss account are no longer brought into account for tax purposes. This resulted in reversals of previously deductible or taxable debits and credits being brought into account over a five year spreading period. In addition the amortised cost basis of accounting was re-defined, resulting in interest being brought into account for connected companies.

Following this, further amendments were needed in Finance Act 2016 in order to eliminate asymmetries arising which prevented an interest deduction where the lender is, broadly, an individual or corporate resident in a non-qualifying territory (broadly a territory with which the UK does not have an appropriate double tax treaty).

The overall aim of HMRC is to ensure that deductible debits are matched with taxable credits, although the mechanism to reach this end result is somewhat convoluted. However, broadly non-market rate loans must be accounted for on the basis of the present value of the cash flows (i.e. the balance of the loan must be discounted by reference to the market interest rate which would have applied to a similar debt).

As noted above, the tax treatment will depend on the entities/individuals party to the loan, but some planning opportunities may arise given the timing of taxation and the announced fall in corporation tax rates.

Investment property

Movements in fair value (through the profit and loss account) continue to be non-taxable. Hence revaluation gains and losses on investment property will not be taxable and the profit on sale will continue to be treated as a chargeable gain for tax purposes.

Lease incentives

Lease incentives must now be spread over the entire lease term (previously this was to the earliest break/rent review). This is likely to result in a greater deferral of taxable income for the landlord, although consequently the tenant will suffer from deferred tax deductions.

Holiday accruals

Companies will be required to make an annual accrual for the value of holiday which has not been taken by employees. This is tax deductible provided the holiday is taken within 9 months of the year end.

This is likely to be difficult to monitor in practice, particularly where the leave year and the accounting year do not coincide. It is also highly likely to be immaterial in most situations.

Deferred Tax

Deferred tax is essentially an accounting rather than tax legislation concept. Under FRS 102 deferred tax must be provided on a greater number of items including the revaluation of non-monetary assets (such as fixed assets or investment properties), unremitted earnings of subsidiaries, associate and joint ventures, and fair value adjustments on subsidiaries' net assets.

Disclosure

There are some differences between the disclosure requirements under existing UK GAAP and FRS 102, which include a reconciliation to total tax rather than current tax (thus eliminating timing differences as reconciling items), and disclosure of tax expenses relating to discontinued operations.

Due to the tax complexities involving intragroup loans and financial instruments, advice should be taken in considering the tax impact on existing arrangements and planned future arrangements.

5 Taxation of termination payments

Following the Treasury's consultation on the simplification of tax and National Insurance Contributions (NIC) treatment in respect of termination payments, the Government has confirmed that there will be changes to the current differing treatments of contractual and non-contractual termination payments. However, the £30,000 exemption for genuine compensation for termination payments will remain in place.

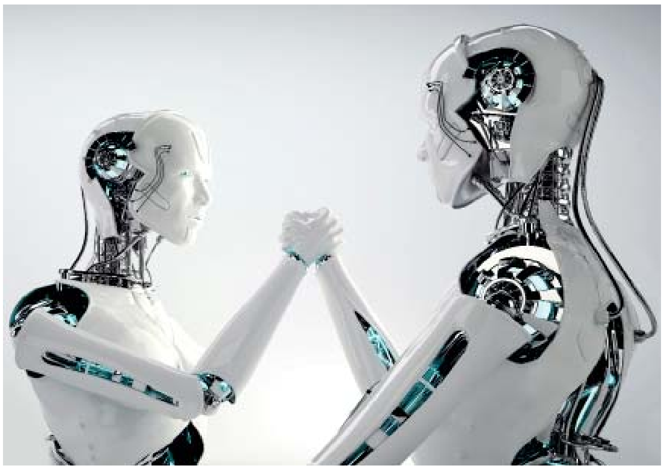
With effect from 6 April 2018, it is anticipated that the following will come into effect:

1. All payments in lieu of notice (PILONs) (whether contractual or non-contractual) will be subject to tax and both employer and employee NIC. Currently it is only contractual PILONs which attract tax and NIC, which can lead to confusion as to whether a payment should be treated as taxable or not.

2. The rules for income tax and employer's NIC will be aligned, so that employer's NICs will be payable on payments above £30,000. Currently such payments are only subject to income tax. However, it remains that employees' NICs are not due on any payments above £30,000.

3. Injury to feelings (ITF) payments included within termination payments will count towards the £30,000 exemption from income tax and NICs.

The rules are still subject to final confirmation by the Government as the consultation period only closed on 5 October 2016. It seems highly unlikely however that any of the rules relating to termination payments will change prior to 6 April 2018.



6 The benefits of apprenticeships

The cost

With effect from 6 April 2017, employers with an annual pay bill over £3 million will be subject to an Apprenticeship Levy (AL) of 0.5% of their total pay bill minus an annual allowance of £15,000. Annual pay is broadly made up of employees' earnings that are subject to Class 1 National Insurance contributions and includes items such as wages/salaries, bonuses, commissions and pension contributions, but excludes other payments such as benefits in kind.

The AL will be payable in monthly instalments with the normal PAYE/NIC payments and will be reported to HM Revenue & Customs (HMRC) as part of the Real Time Information (RTI) submission. The £15,000 allowance will be split over the 12 monthly payments and will be subject to the same rules as the Employment Allowance (EA) regarding its eligibility (i.e. it can only be claimed once by connected companies and charities). However, it should be noted that whereas the EA can only be claimed by one employer, it is permissible for the AL exemption to be apportioned across a group of companies, subject to the maximum of £15,000 being claimed in total.

At present, the draft regulations specify that any employer who anticipates that their annual pay bill will be £2.8 million or higher must engage with HMRC to report the AL.

The benefit

Whilst the AL is an additional cost to larger employers, the benefit to all employers is the availability of funding (at differing levels) for the training of apprentices. With effect from 1 May 2017, employers will be able to access funding for apprenticeships through a new digital apprenticeship service account.

All employers through the Digital Apprenticeship Service will be able to:

- Select an apprenticeship framework or standard;
- Choose the training provider(s) to deliver the training;
- Choose the organisation that will assess the apprentices; and
- Post apprenticeship vacancies.

However, employers paying the AL, will be able to also use the digital apprenticeship levy service to:

- Set the price agreed with the training provider;
- Pay for apprenticeship training and assessment;
- Advise HMRC to stop or pause payments (e.g. your apprentice may stop their training either permanently or temporarily).

It is anticipated that employers paying the AL will be able to reclaim their AL contributions as digital vouchers to pay for training apprentices. These vouchers can only be used to cover training costs, not items such as wages, travel costs etc. Such employers (whose employees live in England) will receive a 10% top up from the Government to their total monthly contributions. Employers who do not pay the AL will be subsidised by the Government with 90% of the approved training costs being funded.

The Government has set funding caps on each type of apprenticeship and this is the upper limit for which Government funding can be obtained to pay for an apprentice's training.

Any unspent funds in an employer's digital account will expire after 24 months (e.g. if payment of the levy is made to HMRC in May 2017, the funds must be used by May 2019, working on a "first in first out basis").

Employers not paying the AL must contribute 10% of the funding towards the cost of the apprenticeship training, plus any additional cost over the funding cap.

The Government is hoping that the introduction of this levy will encourage employers to take on apprentices.

The current consultation period on the AL closes on 14 November 2016 and hence it is anticipated that the finer details will be published thereafter.

7 Processing benefits through the payroll

The requirement to formally notify HMRC of any benefits that were being processed (and taxed) through the payroll was introduced last year. HMRC has reported that the process has been a success and that they have received positive feedback. Hence it is anticipated that many more employers will look to commence this process for the 2017/18 tax year.

The key requirement to being able to adopt this is for the employer to register with HMRC via the Government Gateway, which can take place at any time up to 5 April 2017. However, HMRC are advising employers to register before the end of December, as this is before the annual tax coding process begins, in order that correct tax codes can be sent out in time for employees with payrolled benefits.

All benefits an employer provides can be payrolled with the exception of the following:

- Vouchers and credit tokens;
- Employer provided living accommodation;
- Interest free and low interest (beneficial) loans.

At present, even where the benefits have been processed and taxed through the payroll, the Class1A National Insurance liability is still payable by way of the P11D(b) process. However, the process is simplified as there is no requirement to prepare individual P11Ds.

Where employers are payrolling benefits, they must give their employees the option and explain to them what it means for them (i.e. an accelerated tax charge compared with P11D reporting). In addition, after the end of the tax year, and before 1 June, the employer must let the employees know the details of the benefits payrolled, the cash equivalent of the benefit, together with details of any benefits that have not been payrolled. It is likely that this information is contained on the employees' payslips.

Therefore, action is needed before December this year if you are considering processing benefits through your payroll for the 2017/18 tax year.

8 Closing the gap on gender pay - new reporting requirements

For employers in both the private and voluntary sector with more than 250 employees, new regulations are coming into force governing the obligation to publish an annual report on their gender pay gap. At present, the employee numbers for group companies are not being aggregated, although this is under review.

The regulations were expected to come into force on 1 October 2016 but have been delayed and it is now anticipated that the regulations will require eligible employers to calculate the gender pay gaps using data from a specific pay period, commencing from April 2017.

Under the present draft regulations, employers will be required to publish:

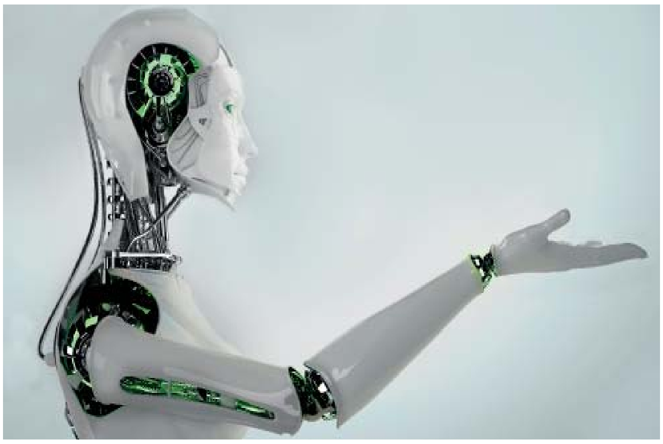
- The difference in mean pay between male and female employees;
- The difference in median pay between male and female employees;
- The difference in mean bonus pay between male and female employees;
- The proportion of male and female employees who received bonus pay; and
- The number of male and female employees in each quartile of their pay distribution.

In addition, the Government has indicated that there will be an additional requirement to include the difference between the median bonus pay of male and female employees.

To add to the onus of reporting these figures, the bonus information must be based on the preceding 12 month period (yet to be defined).

Once the figures have been calculated and a report prepared, it must be published on the employer's website and retained for three years. In addition, the report has to be uploaded onto a government website. The report must be signed by a senior person to confirm that the report is accurate. It is anticipated that employers will add information to the basic requirements in order to explain anomalies, inconsistencies, historical discrepancies or steps being taken to reduce the gap.

The first report will need to be published by April 2018. Employers with more than 250 employees will need to keep a look out for the final regulations and start to plan ahead their processes for the collection of the required information.



9 Sacrificing the tax benefits of salary sacrifice ?

The Government is currently reviewing the operation of salary sacrifice/exchange for the provision of benefits in kind (BIKs). The consultation period only closed on 19 October 2016 and hence the final conclusions are still unknown. However, the areas which the Government has stated will not change are:

- Employer pension contributions;
- Employer provided pension advice;
- Employer supported childcare and provision of workplace nurseries;
- Cycles and cyclist's safety equipment provided under the cycle to work scheme.

The main areas that the Government is reviewing concerns flexible benefit schemes where a cash lump sum is available for allocation between cash pay and BIKs and/or company car schemes which offer a car or cash allowance. An example of the benefit being targeted is as follows:

"Headline salary - £100,000 of which up to £10,000 can be exchanged for benefits. The employee takes benefits of say £7,500 and hence the balance of £2,500 is added to their salary. If the balance of £2,500 was not taken in benefits and was not available as a cash alternative, then HMRC have indicated that this structure can continue".

The proposal by the Government is to change the legislation so that where a BIK is provided with a cash alternative, it will be subject to income tax and Class1A employer NICs. This has the result of removing the tax advantage for the employee and the NICs advantage for the employer. In addition, where the BIK is not taxable (e.g. workplace parking), if the cash alternative was available, the benefit would become taxable.

Hence, this is another payroll area where changes will be introduced over the next 18 months or so and employers offering salary sacrifice or "cafeteria" type schemes will have to keep under review.

What to do next...

If you are interested in any of these issues and wish to discuss them in more detail, please call the Rawlinson & Hunter partner who normally acts for you. If you are not one of our regular clients but would like more information or advice, a full list of partners is provided on this page and any of them will be delighted to help you.

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