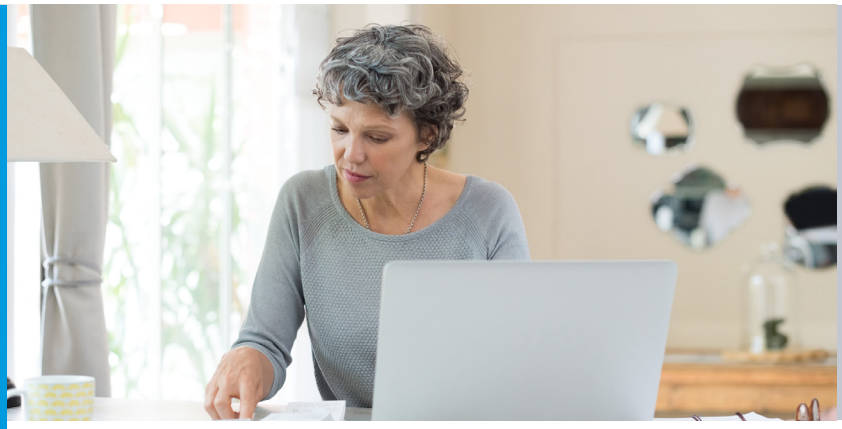

CLEAR VISION
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PayLessTax

2021 Winter **Edition**

Making Tax Digital for All

If you are a VAT registered business with a taxable turnover above £85,000, you will already be aware of the need to keep digital records and, using compatible software, adhering to HMRC's compliance requirements of digitally filing your VAT Returns usually (but not always) on a quarterly basis. This is called Making Tax Digital (MTD) for VAT.

There are some businesses who voluntarily register for VAT. Usually this is because they only deal with VAT registered clients and, by being VAT registered, that business can claim the VAT back on any expenditure they have incurred. These businesses, at present, are not compelled to follow the MTD for VAT rules, although around 30%, to date, have voluntarily done so. However, **the Government has just announced that all voluntarily VAT registered businesses must also be MTD for VAT compliant** as regards the first VAT Return starting on or after April 2022.

It has always been a long-held goal of Government to bring as many taxpayers, be it the self-employed, property landlords or corporates, into the MTD regulations. This aspiration has been held up due to a combination of General Elections, Brexit, Covid-19 and software challenges. However, **from April 2023, the Government has stated that the self-employed and landlord businesses, with a turnover in excess of £10,000, will need to follow the Making Tax Digital for income tax rules.**

This will mean keeping digital business records. Those taxpayers will also need to digitally file details of their business income and expenditure, using compatible software, on a quarterly basis, before submitting a final declaration instead of the usual Self-Assessment Tax Return. **Failure to comply with the MTD rules will ultimately result in penalties being imposed.**

The Government is also carrying out a review on potentially bringing in real time tax payments for those taxpayers who may presently pay their tax in January and July each year. A HMRC consultation is taking place to discuss how to bring in MTD for corporates as well at some point in time.

TIP... If you are one of the taxpayers who could be caught by these radical administrative tax changes please give us a call. The sooner you prepare for these changes the better. We can help guide you through the MTD processes to be ready and primed, in good time, to meet your MTD compliance date whether that is April 2022 or April 2023.

Has the "Van" Lost it's Fizz?

► As a director or employee, does your business provide you with a 'van' for personal use?

► If so, **are you confident that in the eyes of the tax man, it is truly a 'van'?**

The reason why it is sensible to ask yourself these questions is in light of the fact HMRC recently won a tax case against Coca-Cola, where the Courts decided, that those particular 'vans' were in fact 'cars, for tax purposes.

If that conclusion is reached in your case, this could have significant tax and national insurance repercussions for you and your business.

For example:

Valiants Ltd provide their employee, David with a vehicle for business and private use, which was registered on 6th April 2020. The list price is £25,000 with emissions of 186 CO2 g/km. David is a 40% taxpayer. Looking at the tax year ending 5th April 2021:

If it is a 'van':
David would suffer tax of £1,396 on that benefit.
Valiants Ltd would pay across Class 1A national insurance of £482.

If it is a 'car':
David would suffer tax of £3,700 on that benefit.
Valiants Ltd would pay across Class 1A national insurance of £1,276.

If Valiants Ltd has purchased the vehicle and it is deemed to be a 'car', then this could also have a negative cash flow impact on claiming tax relief (capital allowances) through the accounts, as well as affecting the ability of the business to claim back the VAT input tax suffered upon said acquisition.

The Court has taken the view that for a vehicle to be deemed to be a 'van' then:

► The construction/adaptation of the vehicle **at the time it is made available to the employee has to be primarily suited** for the conveyance of goods. That does not mean it has to be used for that purpose.

► **'Primarily suited' does not mean it is 'marginally' more suited** for the conveyance of goods as opposed to being a passenger vehicle. It has to be more than that.

In the Coca-Cola case, one of the vehicles had been adapted to accommodate a second row of removable seats and a window added at the side of them. Two of the other vehicles already, in the original construction, had a second row of removable seats with windows to the side of them. All three vehicles were modified to provide added protection for those sat in the second row of seats to prevent loose items from entering their area if the vehicle had to brake suddenly. Is your 'van' anything like that?

TIP... It is worthwhile reviewing your 'van' situation, in light of the Coca-Cola case, to see whether or not, when looking at the great surround, the vehicle(s) fit the Courts view of a 'van' for tax purposes. Off the back of this particular case, HMRC are likely to revisit those taxpayers having a benefit of a 'company van' for personal use. We are happy to provide a subjective view based upon the facts of each particular vehicle concerned.

A Rewarding Suggestion

It is perhaps naïve for any of us to think that we have the monopoly on good ideas.

It arguably makes good commercial sense to encourage your employees to come up with a flow of suggestions, which may cut costs, improve efficiencies and increase turnover and ultimately enhance the business's bottom line, either in the short, medium or long term. For businesses in certain sectors this could just be one of the ways to move forward as we come out of the pandemic.

It could also help to motivate the employees, perhaps enabling them to buy into what the business is trying to achieve, which in turn may lead to improved staff retention and productivity. Perhaps a financial reward for good ideas and ones the business will implement, may incentivise your team to become actively involved in this. Even better if it was free of tax and national insurance (NI). Well, there are two Suggestion Award schemes which do just that.

The Encouragement Award scheme:

► An **employer can pay up to £25 to reward a good suggestion** or special effort an employee has put in for coming up with an idea.

The Financial Benefit Award scheme:

► This is an employee suggestion which the employer has decided to adopt, in the belief it will result in an improvement in efficiency or effectiveness, which will ultimately result in a financial benefit for the business.

► The amount of the award is the greater of:

a) 50% of the money you expect the idea to make or save your business the year after you put it into action **or**

b) 10% of the money you expect the business to make or save in the first five years after you put it into action.

► **The maximum payment which can be made tax and national insurance free is £5,000**.

► Note the award does not have to be paid in one go. It can be paid in instalments, which can be subject to the business seeing and quantifying the financial benefits.

In both cases, the business can make a greater financial reward. However, the excess above and beyond either the £25 or £5,000 limits would be liable to tax and NI and would need to go through the business payroll.

For these schemes to be compliant with the Government legislation the following rules need to be adhered to:

► **It must be open to all employees** or to an entire group of employees (for example, a particular office).

► **The suggestion must be about your business**.

► It must be likely your employee would not have come up with the idea as part of their normal work.

► The suggestion cannot be at a meeting for proposing ideas.

TIP... We can help you set up the Suggestion Award schemes and advise you on how to keep records to monitor them to ensure compliance with the legislation as well as dealing with aspects such as, for example, the quantification of the award and the apportionment of it if two or more employees have made the suggestion.

The Spanish Property Hit

- Are you a UK resident taxpayer?
- **Do you own a Spanish residential property?**
- **Do you rent it out?**

If the answer to all three questions are in the affirmative, then **you may find that Brexit has thrown up a tax problem for you**.

Prior to 'leaving' the EU, if you rented out your Spanish villa, you would suffer Spanish tax of 19% on your net rental income (after taking account of expenses). Under the terms of the Tax Treaty between the UK and Spain, when completing your UK Tax Return, you could offset that tax against your UK tax liability arising on that overseas net rental income. The maximum Spanish tax credit allowed is limited to the UK tax due on that rental income.

Following our departure from the EU, from 1st January 2021, Spain will treat you as a non-EU resident for Spanish tax purposes. The outcome of that is your rental income will not only be taxed at 24%, as opposed to 19%, but also the tax rate will be applied to your gross rental income (ignoring expenses). Even after taking account of the fact that you can credit the Spanish tax against your UK tax liability, it is highly likely that your overall UK/Spanish tax bill will be higher than prior to us leaving the EU.

Example: (let's assume the exchange rate is £1:1Euro)

Tom, who lives in London, owns a villa in Barcelona, which he rents out for 1,300 euros a month, with mortgage and other costs of 900 euros a month. He is a 40% UK taxpayer.

A) Prior to leaving the EU, Tom's overall tax position would be as follows:

Spain:
Net rental income 4,800 euros at 19% - Spanish tax due 912 euros.

UK:
Net rental income £4,800 at 40% - UK tax due £1,920 less Spanish tax credit £912 = UK tax to pay £1,008.

Tom's total UK and Spanish tax payable £1,920.

If Tom was a Scottish resident taxpayer his overall tax position would have been £1,968.

B) From 1st January 2021, Tom's overall tax position will be as follows:

Spain:
Gross rent 15,600 euros at 24% - Spanish tax due 3,744 euros.

UK:
Net rental income £4,800 at 40% - UK due £1,920 less Spanish tax credit £1,920 (up to the UK tax liability) = UK tax to pay nil. However Tom has £1,824 Spanish tax he cannot recover.

Tom's total UK and Spanish tax payable £3,744. This would be the same amount if Tom was a Scottish resident taxpayer.

Even if Tom did not rent out his villa in Spain, there is still a Spanish tax on second homes based upon an imaginary rent equal to between 1.1% and 2% (usually the latter) of the rateable value of the property. **That deemed rental income would also be taxed at 24%.**

The EU Supreme Court recently ruled that the Spanish tax system was discriminatory against non-EU residents as regards inheritance tax (IHT). It is likely, as a result of that ruling, their IHT legislation will change. We can live in hope that this might also lead to the amendment of the tax rules surrounding rental income.

TIP... If you are in receipt of overseas income or have disposed of an overseas asset which may have triggered a gain or a loss, we can check to see if that needs to be reported on your UK Tax Return, taking into account the terms laid down in any Tax Treaty between the UK and the country concerned.

We are here to help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.

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