Ellacotts
Chartered Accountants & Business Advisers

February 2024

Business Update

Banbury +44(0)1295 250401 I Birmingham +44(0)1212 894455 I Kettering +44(0)1536 646000 I London +44(0)203 6937315

email: solutions@ellacotts.co.uk visit: www.ellacotts.co.uk

HMRC PAY BY BANK ACCOUNT SERVICE

HMRC is offering a new facility as part of its pay by bank account service.

Previously, payment has been required at the same time that a return was filed. But HMRC can now provide the option to schedule a payment for a date in the future, so long as the payment date doesn't fall after the due date of the tax in question. This is a plus point for early birds filing returns before the due payment date.

The facility, open to those logged into their HMRC online account through Government Gateway, can at present be used for the following taxes: VAT; employers' PAYE; PAYE settlement agreement; PAYE late payment or filing penalty; and Class 1A National Insurance contributions. It's expected that the service should soon be widened to cover other taxes. These include capital gains tax; self-assessment; simple assessment; corporation tax; VAT One Stop Shop; the Soft Drinks Industry Levy and the Plastic Packaging Tax.

In response to recent user queries about the pay by bank account service, HMRC has confirmed that no problems arise if payment goes through its Shipley bank account, rather than Cumbernauld. It does not affect payment going to the correct customer record or the time needed to update it.

Employer advice ahead of major change for payroll

Minimum wage: know the rules, not just the rates.

Forthcoming changes highlight the need for employers to deal confidently with the underlying rules. Notably, from 1 April 2024:

- the National Living Wage (NLW) becomes £11.44 per hour
- those aged 21+ qualify for NLW rather than the lower, National Minimum Wage (NMW).

We use the term 'minimum wage' to refer to both the NLW and NMW.

Minimum wage is complex, and a slip up in the underlying calculations can put employers at risk. The danger is not just confined to sectors like retail, hospitality, and cleaning and maintenance, where historically many workers have been paid at or below minimum wage. Because there is so little margin for error, employer risk also arises where payment to workers sits at, or just above, minimum wage. Something like payment into a salary sacrifice scheme can easily the tip the scales, creating an underpayment for a previously compliant employer.

Steps to compliance:

- Categorise workers according to the type of work they do. There are four types of work for minimum wage: salaried hours work; time work; output work; and unmeasured work. For each one, rules on what counts as working time — and therefore the hours to be paid at minimum wage — apply differently.
- Identify the particular period for which the worker is paid (the pay reference period).
- Work out the average hourly rate of pay for the pay reference period:
  1. Calculate the pay for period, with regard to minimum wage rules on what counts as pay, minus any deductions.
  2. Calculate hours worked in the period, with regard to minimum wage rules on what count as hours of work.
  3. Divide the pay for the period by the number of hours worked in the period, to give the average hourly rate for the period.
- Check which minimum wage rate band the worker falls into.
- Check average hourly rate of pay for period is not less than the relevant minimum wage rate. If less, pay should be topped up so that at least minimum wage is paid.

HMRC regularly names and shames employers who make mistakes resulting in underpayment. The most common problems occur when paying apprentices; making deductions from pay which take wages below minimum wage; and not paying for working time correctly.

Compliance with the rules is far from straightforward, and we have only been able to provide an overview here.

Inside this issue ■ Cash basis change means choice for unincorporated businesses ■ Making Tax Digital: remodelled and going ahead ■ Doing business after Brexit: latest ■ Construction industry tax compliance ■ Real or fake? How HMRC communicates ■ Retirement and pensions round-up

CASH BASIS CHANGE MEANS CHOICE FOR UNINCORPORATED BUSINESSES

Rules extending use of the cash basis to calculate trading profits need consideration now.

At present, accounts for the self-employed and partnerships are taxed on the accruals basis, unless the business elects to use the cash basis, instead. In a move aimed at simplification, Autumn Statement 2023 reverses this position. From 6 April 2024, the cash basis becomes the default, unless a business opts out. Businesses currently excluded from the cash basis, such as limited liability partnerships and those who have made a claim for farmers' or artists' averaging, however, continue outside the scope.

Cash basis rules are changed, so that:

- businesses of any size will be able to use cash basis: existing turnover restrictions will be dropped
- current restrictions on how much interest can be deducted from profits are removed (where such interest is incurred wholly and exclusively for the purposes of the trade)
- current loss relief restrictions are removed, so that cash basis losses can be used in the same way as accruals basis losses.

The change matters

It's not just jargon: moving to the cash basis can make a significant difference to cash flow, and the timing of tax liabilities, especially initially. It won't benefit every business. Opting out of cash basis and staying with the accruals basis may be more appropriate for you, so there is a choice to be made.

In outline, if your business operates with customers paying at point of sale, and you have trade credit on the amounts you owe, moving to the cash basis is likely to accelerate the timing of your income tax and National Insurance payments. This can be the case in the retail sector, for example. If on the other hand, you give significant credit to your customers, so that amounts owing to you are usually more than the amounts you owe, moving to the cash basis is likely to have a positive effect on your cash flow. Generally, the more complex the business, the more the accruals basis is important in providing financial information and control. We will be pleased to consider the position with you individually.

Note that there are separate rules around property income cash basis, and these are not impacted by the changes described here.

Making Tax Digital: remodelled and going ahead

Autumn Statement 2023 has confirmed the start dates for Making Tax Digital for Income Tax (MTD ITSA).

In outline, MTD ITSA involves keeping digital records and providing quarterly updates of income and expenditure to HMRC through MTD-compatible software. There is also an end of year finalisation process, replacing the self-assessment tax return.

Where are we now?

As previously announced, from 6 April 2026, self-employed individuals and landlords with qualifying annual income over £50,000 will be mandated to join MTD. From 6 April 2027, it will apply to those with qualifying income over £30,000. The position for the self-employed and landlords with turnover of £30,000 or below is being kept under review. Although HMRC intends partnerships to use MTD ITSA in due course, there is no timetable for rollout to these businesses. Neither is there progress in the plan to bring in MTD for corporation tax.

The Autumn Statement also announced some changes to the details. Though widely welcomed, many commentators feel there's still a long way to go to make the regime effective. The changes include:

- Quarterly updates are now intended to be a cumulative total of income and expenses for the tax year to date. This workaround should help where previous figures need amendment.
- The requirement for an End of Period statement is removed. This should help streamline the end of year process.
- Some administrative easements for landlords with jointly owned property.
- Some groups are exempt, notably foster carers, and those not entitled to a National Insurance number.
- HMRC hopes to be able to deal with multiple agents, for example where quarterly updates are filed by a commercial book-keeper, but end of year submissions are made by a different adviser.

Will it, won't it?

There is, understandably, a feeling that MTD ITSA may never happen. The programme has faced numerous setbacks and is now running eight years late. A report by the Public Accounts Committee published in November 2023, noted 'poor delivery . . . spiralling costs . . . significant design issues still to resolve'. It concluded, 'we are sceptical its new timetable is achievable'.

Clearly HMRC faces a considerable challenge. But it's equally clear that MTD ITSA is still on the agenda for 2026 and beyond, and the government has now consulted on the draft legislation.

Doing business after Brexit: latest

Leaving the EU has meant new rules and procedures when importing and exporting goods. With major regulatory changes still taking place, what comes next?

Border Target Operating Model (BTOM)

The new BTOM contains 'final plans for a new approach to importing goods into Great Britain'. This includes a new approach to security controls applying to all imports; and to sanitary and phytosanitary (SPS) controls (applying to imports of live animals; animal products; plants and plant products) at the border. Controls are phased in from the end of January 2024. Plans to simplify and digitise controls are also set out, along with plans for the UK's new Single Trade Window. When fully operational, this should provide a single digital gateway to submit data required, and apply for licences and authorisations for trusted trader schemes.

Tip: how to comply

Businesses should assess how this is going to impact them. As a priority, anyone importing food products; live animals; animal products; plants or plant products should check the risk level of the commodities involved. Goods are categorised as either low, medium or high risk: each category has different requirements in terms of the checks and documentation needed. Risk categories can be found in the BTOM.

2024 milestones:

- **30 April 2024**: introduction of documentary and risk-based identity and physical checks. These apply to medium risk animal products; plants; plant products; and high-risk food and feed of non-animal origin from the EU.
  Existing inspections of high-risk plants and plant products from the EU move to Border Control Posts.
  Imports from non-EU countries simplified: including removal of health certification and routine checks on low-risk animal products; plants; plant products; and reduction in physical and identity check levels on medium risk animal products.
- **31 October 2024:** safety and security declarations required for EU imports and other territories where the waiver applies.
  Reduced dataset for imports introduced, and use of the UK Single Trade Window to remove certain duplication across different pre-arrival datasets.

The position of the island of Ireland is complex. None of the additional checks or controls set out in the BTOM apply to imports into Northern Ireland from the EU.

At the time of going to press, it is expected that some provisions in the Windsor Framework, which regulates goods moving from GB into Northern Ireland, will be amended. The plans announced include replacing the 'narrow green lane concept' with a 'broader UK internal market system and a new internal market guarantee to protect the historic trade flows within the UK's internal market'. Practically, this should mean that there are no routine checks on UK goods moving within the UK internal market. A transition towards what is being called the UK internal market system is expected to facilitate the scrapping of requirements in the old (Northern Ireland) Protocol for both international customs paperwork and supplementary declarations.

Other changes

Import declarations have already moved from the Customs Handling of Import and Export Freight (CHIEF) system to HMRC's new platform, the Customs Declaration Service (CDS). Export declarations now follow, with the CDS replacing CHIEF completely on 30 March 2024. All exporters should have been contacted by HMRC and moved to the CDS by then.

Preparation is needed and the 'Customs Declaration Service communication pack' on gov.uk gives generic guidance on the steps involved. There are some differences between CDS and CHIEF, and the Trader Dress Rehearsal service, also accessed on gov.uk, has been designed to give a dry run.

Useful resources

The UK Export Academy, run under the umbrella of the Department for Business and Trade, provides a free online training programme, open to UK businesses of any size. It gives an introduction to topics like researching overseas markets, customs procedures, and Incoterms (international rules apportioning responsibility between buyer and seller for areas like import duty and VAT).

For trade between Northern Ireland and GB, the Northern Ireland Customs and Trade Academy, developed as part of the government's Trader Support Service, provides online resources, including training.

Construction industry tax compliance

New change raises the bar for gross payment status (GPS).

GPS allows subcontractors to be paid gross under the construction industry scheme (CIS), without deduction of withholding tax. To gain GPS, there are currently three tests. A compliance test requires all CIS and direct tax affairs, and all returns and payments (excluding income tax self-assessment and corporation tax self-assessment payments) to be up to date. There is also a business test and a turnover test.

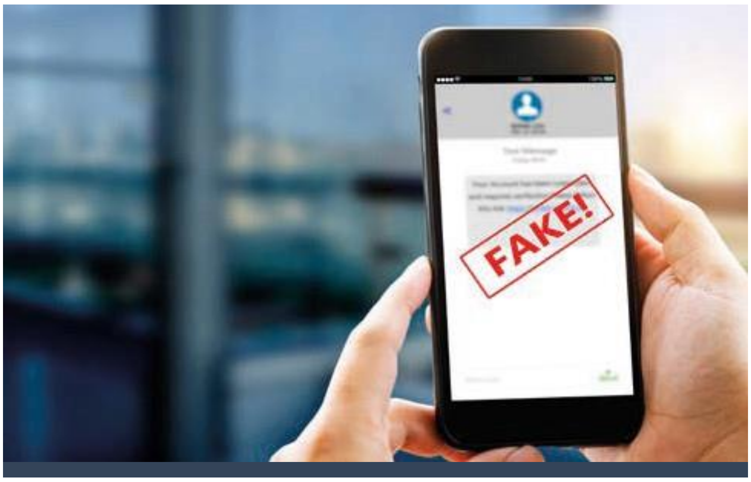
From 6 April 2024, VAT is added to the list of taxes in the compliance test, and subcontractors must show they have complied with VAT obligations to obtain and keep GPS. The first review of GPS compliance will take place earlier, at six months after application, rather than 12. The new rules also provide for HMRC to cancel GPS at once if it has reasonable grounds to suspect fraud involving VAT, corporation tax, income tax or PAYE.

Real or fake? How HMRC communicates

Out of the blue, a text or phone call claiming to be HMRC.

It threatens legal action over your tax, or tells you your National Insurance number has been 'compromised' — or perhaps it says you're due a tax refund. The common denominator, though, is that you're asked to provide details, like bank or credit card information — giving a criminal access to your affairs.

You can protect yourself by knowing what genuine contact from HMRC looks like, and the place to start is 'HMRC phishing and scams' on gov.uk. This gives detailed information about HMRC-related scams, with examples of known phishing emails, suspicious phone calls and texts. The pages are regularly updated.



HMRC uses a number of different communication channels: letter, email, phone, and text message. To help you identify fakes, gov.uk gives guidance on how these are used, and the type of content HMRC uses them for. The 'intelligent text message service' for instance, is increasingly used if you call one of HMRC's helplines from a mobile phone. HMRC sees this as a way to resolve queries more efficiently. Texts are triggered if you use particular key words — like 'find unique taxpayer reference number' — to describe why you're phoning. The text will route you to HMRC online services or guidance.

On occasion, HMRC uses QR codes. It does this in two specific ways. Firstly, in a letter, where they would be used to take you to guidance on gov.uk. They would not be used to take you to a page to input personal information. Secondly, a QR code might be used if you're logged into your HMRC account, to redirect you elsewhere.

HMRC is wary about using email as a way of corresponding because of the security issues involved. Unless you have specifically given it permission to correspond with you by email, email contact about your affairs apparently from HMRC is likely to be suspect.

The page 'Check a list of genuine HMRC contacts' explains where HMRC is currently engaging with the public. It's useful to know that proactive contact from HMRC like this is often very specific. From 13 November 2023 to 30 August 2024, for instance, it's working with BMG Research on a survey into aspects of its National Minimum Wage compliance programme, and may approach by email, letter or phone, inviting you to take part.

If you do inadvertently share your personal details with someone impersonating HMRC, gov.uk also gives guidance on what to do next, as well as explaining how to report any suspicious contact you receive.

RETIREMENT AND PENSIONS ROUND-UP

What happens to your pension when you die?

A recent survey by the Money and Pensions Service (MaPS) found that more than half of people don't know what happens to their pension when they die. It found that only two in five people knew that pensions go to a nominated beneficiary: and one in five didn't know who had been nominated. Many incorrectly thought pensions passed automatically to next of kin.

There are specific rules about what happens to funds left in a defined contribution pension fund when someone dies. The funds are usually written in trust so that they don't form part of your estate: death benefits therefore generally fall outside inheritance tax and are paid out at the discretion of the scheme administrator, to your chosen beneficiary.

It is therefore particularly important that the pension provider has an up to date record of who you would like to leave any such unused funds to. This is provided through what's called a nomination or expression of wish form.
Where circumstances change — on marriage, divorce, loss of a partner or birth of a child, for example, you might want to check that the beneficiary named on your pension provider's records is still in line with your wishes, and notify of any change you would prefer.

Note that there are different provisions for defined benefit schemes: we can advise further here.

Pensions dashboards

Pensions dashboards are being developed to provide a single point of access, online, to information about all someone's pension savings — including the State Pension.
It's a development sponsored by the government to help people engage with pensions savings, provide for retirement and make more informed decisions about accessing their pension savings. The aim is also to 'reconnect individuals with lost pension pots'. When this will become reality is not yet certain, but it should be by 31 October 2026, and may take place before this.

The money midlife MOT

This is part of a digital offering from the government, designed to help take stock of work, health and finances. The financial side is created by the MaPS, and is aimed at those aged 45-65, who both live in and plan to retire in the UK. A short series of questions about your finances, attitudes to saving and budgeting, generates a personalised downloadable report with links to relevant sources of information.

Please contact Ellacotts if you wish to discuss any of the articles in this newsletter or if you have a query, please contact your usual contact at Ellacotts.