Personal Tax Newsletter
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Combating the cost-of-living crisis

Following the stresses caused by the COVID-19 pandemic and Russia's invasion of Ukraine, many businesses and households are under extreme pressure from rising inflation rates and soaring energy prices.

Here, we take a look at the measures put in place by the government to help companies and families cope with the cost-of-living crisis.

Rising inflation

The UK has experienced the highest level of inflation in 40 years in the past few months, with the Consumer Prices Index (CPI) rising by 9.1% in the 12 months to May 2022. Data published by the Office for National Statistics (ONS) showed hikes in prices for everyday food and non-alcoholic drinks during May. Economists expect the rate to stay within the 9%-10% range in the coming months before leaping again in October when the next adjustment to the energy price cap is implemented.

Rising inflation levels, combined with other factors, helped the cost of living skyrocket for many households in the UK.

Measures for businesses

Windfall tax

Chancellor Rishi Sunak announced that a 25% Energy Profits Levy will be introduced for oil and gas companies in response to the 'extraordinary profits' they have made as a result of the cost of energy crisis. The Levy will increase the headline rate of tax on oil and gas companies' profits from 40% to 65%.

The Energy Profits Levy will apply to profits arising on or after 26 May 2022: companies with accounting periods that straddle this date will need to apportion their profits.

Confirming that the new Levy is temporary, the government said that it will be phased out once oil and gas prices 'return to historically more normal levels'. A sunset clause applies to the Levy, which will remove the tax after 31 December 2025.

Additionally, the Levy includes a new 80% investment allowance in order to incentivise investment. The allowance means that companies will receive a 91p tax saving for every £1 they invest, which the government hopes will provide an incentive to invest.

The Energy Profits Levy does not apply to the electricity generation sector. However, the government stressed that it is consulting with the power generation sector to 'drive forward energy market reforms and ensure that the price paid for electricity is more reflective of the costs of production'.

The government expects to raise around £5 billion from the tax in the first year, which it stated will go towards easing the burden on families in the UK.

Measures for households

The Chancellor also announced a £15 billion package of support for UK households, made available from 26 May 2022. The Energy Bills Support Scheme, which was set to provide eligible households with a one-off £200 loan to help families with soaring energy bills, will see the support double to £400 and be given as a grant.

Government publications state that energy suppliers will deliver the grant to households with a domestic electricity meter over six months, starting from October. Customers who pay by direct debit or credit will see the money credited to their account, and customers with pre-payment meters will see the grant applied to their meter or given as a voucher.

The government will also provide a one-off payment of £650 for households on means tested benefits. According to the government, eight million households stand to benefit.

In order to support people who require additional help, the government is also providing an extra £500 million in local support via the Household Support Fund. This fund will be extended from October 2022 to March 2023.

The UK's cost-of-living crisis looks set to continue into the latter parts of 2022. We will keep you up to date on the latest government support measures.

HMRC's Trust Registration Service

With a registration deadline looming, and urgent action needed, check now: could the Trust Registration Service (TRS) impact you?

Part of a European initiative to tackle money laundering and the financing of terrorism, the rules around the TRS now have consequences for many more trusts and trustees than originally anticipated. This means trustees able to disregard the requirements previously should reassess their position.

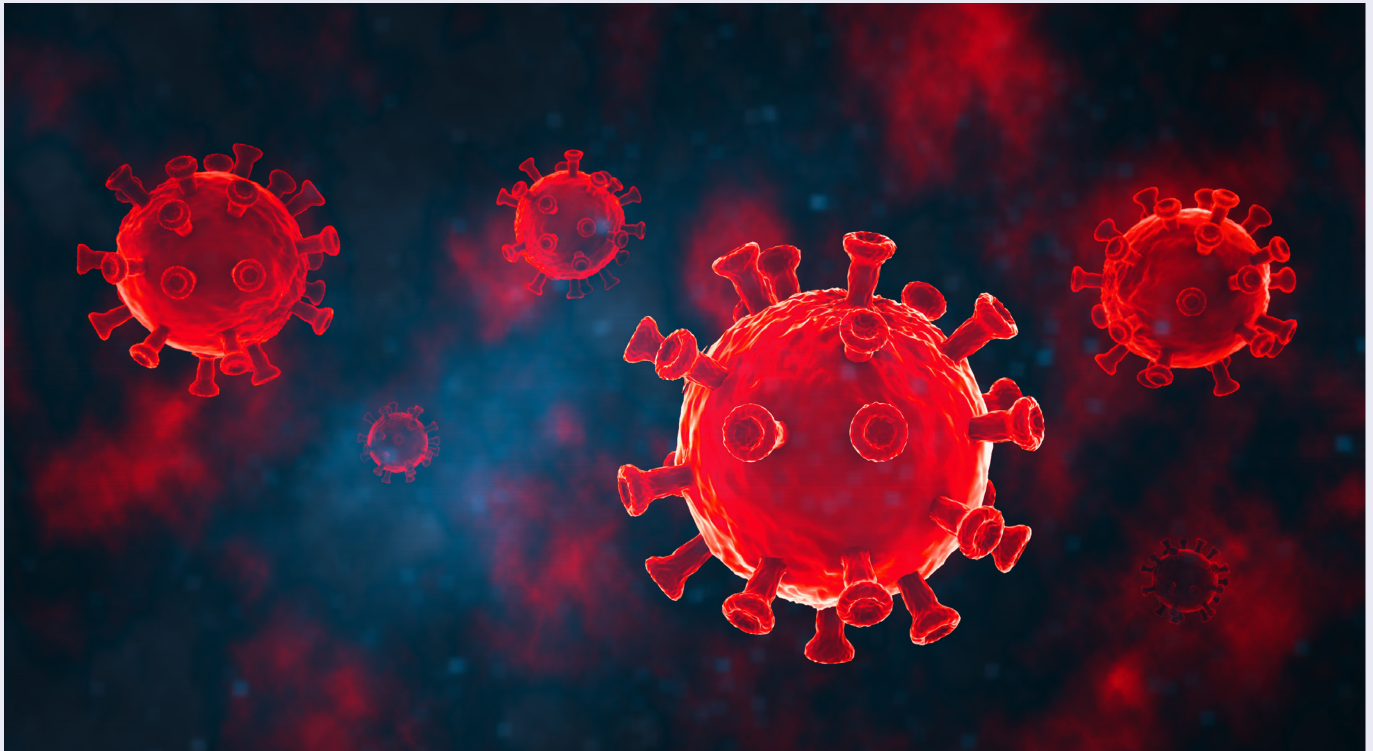
Initially, the requirement was for all express trusts with a UK tax liability to register with the TRS. An 'express trust', according to HMRC, is a trust deliberately created by a settlor, usually in the form of a document such as a written deed or declaration of trust, rather than, for example, one created by an act of law.

The requirement now, however, is for all UK express trusts to register, whether they have a tax liability or not. The only opt-out is if they fall within specific exclusions. Exclusions cover express trusts considered lower risk by HMRC, such as charitable trusts. Even trusts in the excluded categories, though, must register if they have a liability to UK tax. There are also provisions for non-UK trusts: if this is of relevance to you, we can advise further.

In an administrative quirk, trusts in existence on 6 October 2020, but which have since been wound up, are also within scope. Such trusts must register and then be removed from the register.

We recommend taking stock now. Is it possible that you have been involved in setting up a trust, or acting as a trustee in the past? What constitutes a trust is not always intuitive. Some arrangements may not immediately spring to mind as being in the trust category, such as opening a cash deposit account for a minor. In fact, this could constitute a bare trust: although the good news is that this is one of the TRS exclusions. Investments such as stocks and shares held on trust for the benefit of a minor, on the other hand, are not excluded. For the avoidance of doubt, the rules do not apply to Child Trust Funds, nor Junior ISAs.

The deadline to register non-taxable trusts created on or before 6 October 2020 is 1 September 2022. Non-taxable trusts created after 6 October 2020 must be registered within 90 days of their creation or becoming liable for tax, or by 1 September 2022 (whichever is later). Please remember we are on hand to assist with the registration process and advise on the information needed to do so.



Covid-19 support and a letter from HMRC?

HMRC is still reviewing claims made for financial support during the pandemic.

Most recently, HMRC compliance activity has focused on claims to the fourth and fifth Self-employment Income Support Scheme (SEISS) grants, and it has been writing to those who received either or both of these grants, if their tax return for any of the years 2016/17 to 2019/20 has been amended after 3 March 2021, and that amendment impacts their entitlement to the grants.

Amendments in this context include corrections by HMRC, taxpayer amendments and HMRC amendments following an enquiry, but not contract settlements, revenue assessments or charges raised.

Where such a tax return amendment means the level of grant would fall by more than £100, or would effectively render someone ineligible for the grant, there is a requirement to repay the relevant amount to HMRC. There is an added complication in that there were two payment bands for the fifth SEISS grant: a higher 80% rate and a lower 30% rate.

An amendment to the tax return therefore, could potentially move a claimant from one band to the other, resulting in SEISS overpayment.

HMRC's current letters include a formal tax assessment, and the correct procedures need to be followed in order to avoid penalties. If you receive such a letter and agree HMRC's figures, payment is needed within 30 days of the due date. In cases of financial difficulty, time to pay may be arranged with HMRC.

If you disagree, a formal appeal should be made in writing within 30 days of the date of the letter. In short, if you receive such a letter, it's important to act, and promptly: please do contact us for further advice.

Capital gains tax: negligible value claims

What happens if you own shares that have become all but worthless – say you bought shares at the start of the pandemic, and their value has plummeted?

In these circumstances, a negligible value claim may work to your advantage. The claim allows you to crystallise a capital loss and use it against other capital gains, or potentially against an income tax liability.

How it works

'Negligible value' is not defined in statute, but HMRC interprets it as meaning 'next to nothing', and the claim means you are treated as having sold an asset, and then immediately reacquired it at the time of the claim, for the value specified in the claim. That value will usually be nil. To make a claim, the asset must, however, have become of negligible value since you acquired it: a claim cannot be made on an asset worth nothing when it was acquired.

It is possible to specify an earlier date in the claim, potentially giving a more elastic timeframe. The provision can thus have effect for up to two years before the start of the tax year in which the claim is made. To make such a retrospective claim, the asset must have been owned at the earlier specified time, and have become of negligible value on, or by, the earlier specified time.

There are strict conditions to be aware of. The asset must still be in your ownership at the date of the claim. If the company has been dissolved, you are automatically treated as having made a disposal of the shares at the time of dissolution. In consequence, you cannot make a negligible value claim on or after the date a company has been dissolved, since you no longer own the shares. All of this means that the timing of claims is particularly important.

Where you want to make a claim for shares and securities for a company in liquidation or receivership, there is specific information HMRC will require to consider the claim, and we can advise further here. HMRC maintains on gov.uk a list of shares and securities in companies previously quoted on the London Stock Exchange that it accepts as being of negligible value.

Note however, that a claim is still required even if your shares are on the list. There is no published list for unquoted companies, companies formerly quoted on the Alternative Investment Market and PLUS Market, or non-UK companies.

Here to help

Claims are made either via the tax return, or by writing to HMRC. We would strongly recommend discussion in advance of the end of the tax year, in view of the importance of timing and the possibility of backdating claims. We are always on hand to provide in depth advice on the optimal approach to any capital loss, whether for an individual or a company.

What's going on with your National Insurance costs?

National Insurance contributions (NICs) rose in April 2022, but the latest swing of the pendulum brings better news: an increase in the amount that can be earned before NICs are due.

Good news, bad news?

The new rules take effect from 6 July 2022. They mean that while employees have been able to earn £190 per week before paying Class 1 NICs between 6 April and 5 July 2022, from 6 July 2022, they will be able to earn up to £242 per week.

Because the figures have been adjusted part-way through the 2022/23 tax year, the full annual benefit won't actually come through until the next tax year, 2023/24. It's only then that payment of NICs will start when earnings reach £12,570 per year – the figure that you will have seen in the headlines when the measure was first announced.

For some people, the July 2022 change will counteract the April increase. It won't, however, do so for everyone. Employees earning more than about £35,000 are still likely to pay more in NICs than in 2021/22, even after the July change.

The next development to come is the introduction of the Health and Social Care Levy (HSCL) as a standalone charge in 2023. This will not change the overall equation for anyone paying NICs at present, but it will affect a wider range of employees. This is because employees over state pension age do not pay NICs, but they will need to pay the HSCL.

Top tax tip

For employers caught between unwelcome inflationary pressures and the need to retain staff, is there anything that can be done to keep NICs costs in check?

The short answer is yes. Salary sacrifice arrangements still make a useful tool to chip away at a rising NICs bill.

In outline, a salary sacrifice arrangement is an

agreement to vary an employee's terms and conditions of employment, reducing entitlement to cash pay in return for a non-cash benefit. The tax and NI savings do not apply in relation to all benefits, but pension contributions and employer-provided pensions advice; ultra low emission vehicles; cycles and cycling safety equipment, including the cycle to work scheme; and employer-provided childcare are all benefits where substantial savings can be made. Because pay is calculated after the 'sacrifice', the arrangement decreases the amount assessed to tax and NICs. Both employer and employee benefit from the NICs saving.

To obtain the intended tax advantage requires close attention to detail. Salary sacrifice arrangements must be set up correctly, creating the appropriate change in the terms of the employment contract. This is an area that sometimes causes concern. Another area where care is needed is where salary is close to the minimum wage level. Salary sacrifice arrangements must not reduce cash earnings below minimum wage rates, and the position will need monitoring here.

Working with you

We should be delighted to advise further, giving you confidence that your arrangements will withstand HMRC scrutiny.

Up to speed with pensions

'All I know is I've put in an amount of money… but how they come to that figure, no idea.'

HMRC research into public understanding of pensions tax relief found considerable lack of awareness as to how tax and pensions fit together. Broadly, an individual is entitled to make pension contributions and receive tax relief on the higher of £3,600 or 100% of earnings in any given tax year – though tax relief is generally restricted for contributions above the annual allowance (£40,000). Higher earners may be impacted by the annual allowance taper, which can in some circumstances reduce the annual allowance to £4,000.

The maths underlying tax relief means that for every 60p saved by a higher rate taxpayer, the government adds 40p, a 66.6% contribution. For every 80p contributed by a basic rate taxpayer, the government adds 20p, a 25% contribution.

What HMRC's research also pinpointed was 'a clear appetite' for more information to help taxpayers understand what they need to save to afford the retirement they envisage.

Pension provision needn't be a closed book.

As your accountants, we are ideally placed to advise on tax efficient planning for retirement. Do contact us for more information.

FAO landlords: Homes for Ukraine scheme

Payments received under the Homes for Ukraine sponsorship scheme are free of tax. Legislation setting this out will be included in the next Finance Bill, with retrospective effect from the date of payment.

In practice

This means that Homes for Ukraine sponsorship payments made by local authorities are exempt from income tax and corporation tax. Neither are they chargeable to National Insurance contributions.

It is important to remember, however, that as sponsorship payments are not taxable, the consequence is that tax relief is disallowed for expenses that might otherwise have been set off against taxable income. This covers, for example, expenses incurred by landlords in relation to the property.

Furnished holiday lettings

The rules for properties used as furnished holiday lets (FHLs) are currently unchanged. FHLs benefit from bespoke tax rules, one key qualifying condition being the requirement that property is let at a commercial rate for 105 days each year. A written statement from the Treasury in March indicated that there was, at that stage, no intention to relax this requirement.

We continue to monitor the position here and will advise of any developments.

Companies

For those who hold property through a company, the position with regard to relief from the Annual Tax on Enveloped Dwellings (known as ATED), and the higher 15% rate of Stamp Duty Land Tax (SDLT) is also important. Companies which already qualified for such relief for dwellings used in a property development, or property trading business, or because let on a commercial basis, will still be able to claim the reliefs while the dwellings are used in the Homes for Ukraine scheme.

Further, a company purchasing a property for a purpose that would otherwise be relievable from the 15% rate of SDLT, will still be able to benefit from the relief, even if the property is temporarily used for the Homes for Ukraine scheme. If a dwelling does not currently qualify for relief from ATED before inclusion in the scheme, ATED relief will, nonetheless, be available from the point of occupation where the whole dwelling is used for the scheme.

The provisions on ATED will have effect from 1 April 2022 and from 31 March 2022 for SDLT.

Working with you

We are always happy to help you navigate the rules on property tax. Do please contact us to explore tax efficient ways to manage your property portfolio.

Cameras, action and a happy tax ending

The Enterprise Investment Scheme (EIS) is one of four venture capital schemes designed to allow certain types of small, higher-risk, unquoted trading companies to raise capital.

The schemes offer significant tax reliefs to individual investors buying new shares in the company. Availability of relief under the EIS was centre stage in a recent case at the tax tribunal brought by Inferno Films Ltd. Inferno, a film production company based in Wales, needed funding to make a psychological thriller, 'The Ballad of Billy McCrae'. Spoiler alert: Inferno won.

In essence, the EIS offers several forms of relief. Chargeable gains on any asset can be deferred by making a qualifying share subscription. The investment itself can attract income tax relief and a capital gains tax exemption on gains made when the shares are disposed of. Income tax relief is particularly generous, at 30% on investments up to £1 million a year, and £2 million a year, if at least £1million of that is invested in knowledge-intensive companies.

A company must meet stringent conditions for relief to be available to an investor. For example, the investment must generally be made within seven years of the company's first commercial sale, and the amount of capital raised in any 12-month period is limited to £5 million (£10 million for knowledge-intensive companies).

For Inferno, the condition under the spotlight was the risk to capital condition. This requires the company to use the money for growth and development, and stipulates that the investment should entail the risk of the investor losing more capital than they are likely to gain as a net return.

HMRC argued that Inferno failed here because it did not have 'objectives to grow and develop its trade in the long term'. Specifically, it highlighted Inferno's lack of employees and the fact that it subcontracted many of its activities. It suggested that Inferno was at best, a vehicle to provide finance for a series of individual projects. Inferno said its approach conformed to film industry norms and was the only realistic course of action for a small start-up venture. Its argument was upheld by the tribunal, which found that sufficient long-term aims did exist, as evidenced by its commitment to the Welsh film industry.

Whether you are an investor or a company looking for inward investment, we should be pleased to explain the venture capital schemes in more detail.

Business Round-up

HMRC issues £14 million in penalties for minimum wage offences

HMRC issued 580 penalties totalling over £14 million for minimum wage offences during 2020/21, according to a report released by the Department for Business, Energy and Industrial Strategy (BEIS).

The penalties given out for National Minimum Wage (NMW) and National Living Wage (NLW) offences have dropped by £4.5 million from the year before, which saw 992 penalties worth £18.5 million.

Last year, the Low Pay Commission (LPC) – which advises the government on minimum wage rates – released a report that said more needed to be done to build workers' confidence in the enforcement regime and to support employers to comply with the rules.

The BEIS's report says that HMRC has adapted its communications to make it clear to workers that they have the option to remain anonymous if they make a complaint, and that they can report a previous employer for minimum wage breaches.

It also says it will be more transparent about the most common minimum wage breaches it finds, which include deductions from workers' pay and unpaid working time, to help organisations remain compliant.

The report said: 'The BEIS therefore publishes an educational bulletin with each naming round to help raise awareness of minimum wage rules and improve compliance. Bulletins include analysis of the most common breaches in each naming round; examples to ensure understanding of how such breaches can be avoided; and links to the government's 'Calculating Minimum Wage' guidance for further details.'

FSB finds one in three business owners suffered COVID-related mental health decline

Research carried out by the Federation of Small Businesses (FSB) has found that 34% of small business owners had their mental health adversely impacted by the coronavirus (COVID-19) pandemic.

The FSB's survey also found that 24% of respondents currently have a mental health condition such as anxiety, depression or post-traumatic stress. 16% of small business owners report having a mild mental health condition; 6% stated that they have a moderate mental health condition; and 2% said that they have a severe mental health condition.

Commenting on the issue, Tina McKenzie, Policy and Advocacy Chair at the FSB, said: 'Whether it's the migrant entrepreneur suffering post-traumatic stress, the aspiring start-up creator wrestling with depression as they struggle to find work, or the thousands of business owners who feel isolated and hopeless because of late payment, policymakers should reflect on the challenges faced by entrepreneurs during this Mental Health Awareness week.

'By building on, and promoting access to, the support that's already available to business owners and their teams, the government can make a real difference to mental wellbeing.'

Tax Tip

Forming a limited company

If you are self-employed you may want to consider forming a limited company. A limited company can be an effective way to shelter profits, especially if immediate access to them is not required.

Profits paid out as salaries, dividends or bonuses are often liable to the top tax rates, whereas profits kept in the company will be taxed at 19%. Funds retained by the company can be used to buy assets or provide for pensions, both of which can be eligible for tax relief.

We can help you set up a company – please contact us for more information.

Reminders for your diary

August 2022

2 Deadline for submitting P46(Car) for employees whose car/fuel benefits changed during the quarter to 5 July 2022.

19 PAYE, Student loan and CIS deductions are due for the month to 5 August 2022.

September 2022

1 New Advisory Fuel Rates (AFR) for company car users apply from today.

19 PAYE, Student loan and CIS deductions are due for the month to 5 September 2022.

30 End of CT61 quarterly period.

October 2022

1 Due date for payment of Corporation Tax for period ended 31 December 2021.

5 Deadline for notifying HMRC of new sources of taxable income or gains or liability to the High Income Child Benefit Charge for 2021/22 if no tax return has been issued.

14 Due date for income tax for the CT61 quarter to 30 September 2022.

19 Tax and NICs due under a 2021/22 PAYE Settlement Agreement.

PAYE, Student loan and CIS deductions are due for the month to 5 October 2022.

Small employers PAYE quarterly payments due for the pay periods 6 July to 5 October 2022.

31 Deadline for submitting 'paper' 2021/22 self assessment returns.

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