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CLASS 2 NICs WILL BE PAYABLE VIA SELF-ASSESSMENT

Currently, Class 2 National Insurance contributions (NICs) are payable through a bank, post office or by post. From April 2015, most self-employed people will be able to pay their Class 2 NICs through self-assessment, together with any income tax and Class 4 NICs that are due.

As a result HMRC is no longer accepting any new direct debit applications to pay Class 2 NICs. Instead, HMRC will be writing to taxpayers to explain that instead of setting up a direct debit, a request for payment will be sent in April 2015 asking for payment of any outstanding contributions up to 11 April 2015.

These planned changes from April also mean that clients will no longer need to apply or re-apply to defer payment of Class 2 and Class 4 contributions; and any new applications to defer payment will not be processed.

This measure comes as a result of the Government wishing to simplify the way in which self-employed people pay their NICs – essentially payment of income tax and NICs through self-assessment should result in a more 'joined-up' system which is easier to follow as both taxes will be aligned with one another.

THE NEW 0% STARTING RATE OF INCOME TAX – A PRACTICAL REMINDER

Background

At Budget 2014, the Government announced that it would be abolishing the 10% starting rate of tax for savings income with effect from 6 April 2015 and replacing it with a new 0% rate to provide further support for low earners. In conjunction with this, the amount of income to which the starting rate will apply is to be increased from £2,880 to £5,000 so that, in tax year 2015/16, those with a total income of less than £15,600 (£10,600 personal allowance for 2015/16 plus the new 0% starting rate band) will pay no tax on their savings. This article provides an overview of how the 0% starting rate band will operate and a reminder of the planning opportunities available to savers.

The basic position

From 6 April 2015 the 10% rate that currently applies to savings income falling within the starting rate band of £2,880 will be abolished and replaced with a new 0% rate that will apply to the first £5,000 of savings income received by those with a total income below the sum of their personal allowance and the new £5,000 ‘nil rate’ band.

As non-savings income is always taxed before savings income, the new tax-free £5,000 starting rate band can only apply to those earning less than the total of their personal allowance and the 0% starting rate band. For most people this means non-savings income (ie. earned income and rent) must be below £15,600 (2015/16). However, the figure may be higher for people born before 6 April 1938 or those entitled to married couple's allowance or blind person's allowance. Eligible savers will be able to register with their bank or building society for tax-free savings by completing a form R85.

The eligibility rules for completing a form R85 currently mean that an R85 can only be completed by a saver whose total income for the tax year will be below their tax-free personal allowance. However, from 6 April 2015 these rules are also changing to ensure that any saver who is unlikely to be liable to tax on any of their savings income in the tax year can complete an R85 and register to receive interest without tax deducted – even if they pay tax on other (non-savings) income.

In practice this means that, if a saver’s total income that is subject to tax will be below the total of their tax-free personal allowance plus the £5,000 starting rate limit for savings then, from 6 April 2015, they can register to have interest paid on their accounts, without tax deducted, using form R85. A separate form R85 must be sent to each institution with which an account is held.

Note, however, that because form R85 can still only be used where **no** tax is likely to be payable on savings income, in cases where total income is greater than £15,600 but earned income is below £15,600 (so that **some** tax is payable on interest), registration for tax-free savings will not be allowed. In these cases it will be necessary for the overpaid tax (i.e. up to the overall £15,600 threshold) to be claimed back from HMRC using form R40 or under self-assessment.

Example

Karen receives £14,000 per year from her job as a teaching assistant. Her tax-free personal allowance is £10,600 for the tax year 2015/16, so she will pay basic rate tax on £3,400 of her earnings. Karen also receives a further £2,000 a year in interest from cash held on deposit, bringing her total income up to £16,000 per year.

As her total income is greater than £15,600, Karen is not eligible to register for tax-free savings. However, because the personal allowance and the starting rate band are not taken up entirely by her earned income, she will be able to claim back the basic rate tax deducted at source from £1,500 of her gross savings income by filling out a form R40 and sending it to HMRC.

What is savings income?

For the purpose of the 'starting rate for savings' (ITA 2007 s12) income falling within the definition of "savings income" (ITA 2007 s18) includes:

- interest eg. from bank and building society accounts, gilt-edged securities and taxable National Savings investments;
- interest distributions from authorised unit trusts and open-ended investment companies;
- income which is not interest, such as the profit on government or company bonds which are issued at a discount or repayable at a premium;
- the interest element of purchased life annuity payments; and
- gains from policies of life insurance (onshore and offshore)

While it is possible for eligible savers to register with banks and building societies to have interest from their accounts paid gross (i.e. without tax deducted), other forms of savings income may, by their nature, have to be paid net of basic rate tax. In many cases, it will be possible for a non-taxpayer to reclaim the overpaid tax by self-assessment or by completion of a form R40. However, this may not always be possible (for example, in the case of onshore bonds where the basic rate tax credit represents the tax deemed to have been paid on the underlying funds and is not reclaimable).

Note that savings income for the purposes of s12 ITA 2007 does not include (inter alia):

- Dividend income;
- Rental income;
- Pension income;
- Income received from a discretionary trust; or
- Foreign income charged to tax on the remittance basis

Simple planning strategies

Simple planning strategies to make use of the starting rate band include:

1. Transferring assets between spouses to ensure that:

    - a non-earning spouse receives sufficient capital to produce savings income of up to £15,600 to facilitate use of their personal allowance and starting rate band of £5,000. However, with interest rates so low this would normally require the transfer of a significant amount of capital to make any noticeable difference

    - a spouse in receipt of earned or pensionable income below £15,600 receives sufficient savings income to ensure that the starting rate band is fully utilised.

2. Investment in non-income producing offshore investment bonds – chargeable event gains qualify as 'savings income' for the purpose of the starting rate band which means that where the bond is encashed by a non-taxpayer, up to £15,600 (tax year 2015/16) of the gain could be tax-free. The non-taxpayer for these purposes could include a non-earning spouse or adult child of university age.

   For added control, the bond investment need not be transferred into the ownership of the ultimate recipient until the encashment is to take place. Assignment by way of gift is not a chargeable event and, provided the gift is made with no strings attached (i.e. the donee is able to use the funds as he or she pleases), there should be no adverse tax implications for the donor.

   Note that this strategy will not work with an onshore bond due to the fact that basic rate tax is deemed to have been paid at source and the gain is therefore only subject to tax at the higher and additional rates with no reclaim of tax deducted at source available.

The Government expects around 1.5 million individuals to potentially benefit from a tax reduction on their savings income, and around half of these individuals to benefit by more than £50 per year. It estimates that over one million individuals will no longer be liable for tax on any of their savings income as a result of this change. Allowing eligible savers to register with a bank or building society for interest to be paid gross (without tax deducted) will remove the need for many to reclaim tax from HMRC, and will therefore provide a significant simplification. As well as savers with low overall incomes, this measure will also benefit some individuals with average or higher incomes whose non-savings income is below £15,600 and other income is primarily interest on savings.

THE GOVERNMENT RAISES THE BAR ON DB ADVICE

In its Budget consultation document, 'Freedom and choice in pensions', the Government floated the idea of restricting transfers from defined benefit (DB) schemes to defined contribution (DC) arrangements. In its response to the consultation, the Government proposed that it would ban transfers from unfunded public service DB schemes to DC arrangements (because of the impact of an exodus on the public purse) and would require transfers from other DB schemes to be made following advice from a FCA-regulated adviser.

Lord Newby, the Lords spokesperson (HM Treasury), in a debate on the Pension Schemes Bill in the House of Lords (27 January 2015), has now stated that the advice will only be needed if **the transfer value** in question exceeds £30,000.

CONSULTATION ON AN INCREASED MINIMUM PERIOD FOR WHICH THE REMITTANCE BASIS CHARGE APPLIES

In December's Autumn Statement, the Government announced it would consult on making the claim to pay the remittance basis charge apply for a minimum of 3 years. This consultation is aimed at understanding why individuals choose not to pay the remittance basis charge each year and why this can change from year to year. It also seeks views on how a minimum claim period for the charge might apply and considers alternatives that would also meet the Government's objectives.

The consultation period runs until 16 April 2015.

Comment

This area of taxation can be complicated and those falling into this category would need to make a choice between paying tax on the arising basis, i.e. on all income and gains wherever they arise, or on the remittance basis in respect of overseas income and gains. The remittance basis of taxation can be beneficial for clients whose level of overseas income and gains means that they would otherwise have a higher liability to tax if they were taxed on the arising basis and therefore the ability to make a choice has been valuable. If this change is implemented then non-UK domiciled individuals will be more restricted as they would have to pay the charge for a set period that is longer than the current one-year period.

ONLINE WILLS DATABASE MADE AVAILABLE TO THE PUBLIC

HM Courts & Tribunals Service has launched a new online database which will allow members of the public to search for and obtain electronic copies of historic Wills within 10 working days and without having to either attend the probate registry or pay a search fee.

The database, which is populated with 41 million scanned documents, can be searched for Wills and grants of representation relating to Wills proved in England and Wales dating back to 1858. To use the basic search facility, only surname and year of death are required although records can be narrowed down using the advanced search facility where further information (such as date of death and first name) is available. New probate records will appear online approximately 14 days after a grant of representation has been issued.

Electronic copies of records can be obtained at a cost of £10 per document.

A Will remains a private document, rather than a public document, unless and until a grant of probate is made. After this time, the Will becomes a public document and anyone can apply for a copy of it.

Comment

The new database provides a very useful resource for family historians and researchers who will now be able to quickly find Wills dating back as far as 1858 without the inconvenience of having to either attend the probate registry in person or incur the additional costs associated with an application for a general search.

GUIDANCE GUARANTEE – PENSION WISE COMPAIGN

Guidance guarantee unveiled as 'Pensions Wise'

The Pensions Schemes Bill sets out the requirement for guaranteed impartial guidance which is to take effect from April 2015. The Financial Secretary to the Treasury unveiled the new brand name of the guidance as Pensions Wise.

From April 2015, over 300,000 individuals a year with defined contribution pension savings will be able to access the service when they turn 55. The Treasury has also issued a progress update on the guidance programme.

Consumer awareness

The FCA has now published its near-final rules for delivering on this duty and this will mean that all relevant communications from pension providers to their customers about retirement must include a clear and prominent statement promoting the availability of the guidance. This statement must inform customers about the purpose of the guidance, how they can access it, the availability of the different channels through which advice can be obtained and provide customers with a recommendation that they should seek guidance or advice. The FCA intends that this requirement will apply following Royal Assent to the Pension Schemes Bill in early 2015, ensuring that individuals seeking to take advantage of the new flexibilities from April are signposted to the service in good time.

As part of this work, an interim standardised letter is being developed by the Treasury, in co-operation with the industry and the regulators, to be included in retirement packs and other communications sent to customers about accessing their pension savings. It will carry the Pension Wise brand.

Using the service

Individuals who want to take up the guidance will be able to access it via the website, the telephone or the Citizens Advice Bureau. Whichever guidance channel is used, users will get the best out of the session if they have had time to gather together relevant information first. To allow them the time they need to gather information and prepare for their guidance, telephone and face-to-face guidance sessions will need to be booked. The importance of this preparation phase was noted by many respondents to the consultation earlier last year.

The online channel will be the first point of access to the service for most people. It is important, however, that everyone is able to access the guidance service, including those who are not able to use or are not comfortable using the internet. Phone and face-to-face guidance will be bookable via phone or (for the latter) by visiting a local Citizens Advice Bureau to make an appointment. All guidance users will be encouraged, where they can, to use the website material to help prepare for their appointment.

The sessions

Telephone and face-to-face guidance sessions will initially be designed as a single session per consumer, though this will be kept under review. The service will provide reminders to people who have booked an appointment and, for telephone guidance, ways of ensuring that the consumer receiving the booked call can be confident that it is from the genuine guidance service.

Consumers interested in early access to the service as part of the Government’s piloting activities can register their interest at: www.gov.uk/pensionwise. Participants for this piloting activity will be chosen to resemble as closely as possible the Government’s ‘priority group’, i.e. in the position of wanting to take a decision on their pension in the very near term, once the pension reforms take effect. The telephone and face-to-face appointments will cover the same material as the website guidance, but with the reassurance offered by a trained guidance specialist. Where consumers have needs that fall outside the guidance framework they will be referred to appropriate third parties for further help.

The exact parameters of the telephone and face-to-face appointments are still being defined, but initial user research indicates an optimum length of session of around 45 minutes. This and other aspects of the guidance will continue to be tested across all three channels by the guidance team and the delivery partners - The Pensions Advice Service (TPAS), Citizens Advice (England and Wales), Citizens Advice Scotland, and Northern Ireland Citizens Advice Bureau – over the coming period.

Summary and action

Success for the guidance service will be determined by what constitutes success for the consumer; and what matters for the consumer is not only the experience of the guidance service per se, but what they do after having used the service.

To help consumers reflect on their choices and make an informed decision about what to do next, the guidance service will provide users with a summary document that will include a record of their options and what action they might choose to take. This document will not prescribe or rule out options, and it will not recommend particular products; the service offers guidance, not advice (though it will help consumers who wish subsequently to seek advice identify how to go about this).

The guidance service will complement professional regulated financial advice and other services, pointing consumers to reliable sources of further help and information as needed and helping consumers recognise the value of further specialist help and advice. If, for example, a consumer wishes to find out more about annuity products, the service will direct them to the Money Advice Service's annuity comparison table. Shopping around for a drawdown product may not be straightforward, so the guidance service will help consumers think about the right questions to ask firms offering them; and if a consumer wishes to look into financial advice, the service will direct them to the Money Advice Service's financial adviser directory, currently under development. The guidance service will also serve those with other pressing needs, such as debt or social care, and direct them to the most appropriate organisation for information and support.

Next steps

The Pensions Schemes Bill, which contains the framework for the guidance, is currently before the Lords, and Royal Assent is expected in February, at which point all of the guidance provisions will take effect. The FCA has already published near-final standards and signposting rules and has committed to make these rules and standards shortly after Royal Assent. Complementing the provisions in the Bill, the Government will introduce two pieces of secondary legislation: first, an amendment to the Regulated Activities Order to clarify that those providing guidance as part of the Pensions Wise service are subject to FCA standards and are not carrying on any regulated activity; and second, amendments to the DWP's existing Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 to ensure that trust-based schemes are subject to signposting requirements equivalent to those for contract-based schemes.

THE TRANSFER OF ISA BENEFITS TO A SURVIVING SPOUSE/CIVIL PARTNER

Following the announcement in the Autumn Statement regarding the ability to transfer ISA benefits to a surviving spouse/civil partner on death, the Government has now published a policy paper and draft regulations to implement this change.

Broadly, this measure will enable, from 6 April 2015, the spouse or civil partner of a deceased ISA saver, (whose death occurred on or after 3 December 2014), to benefit from an additional ISA allowance and therefore to have more of their savings in a tax-advantaged wrapper.

Under the new rules, individuals will be permitted to save an additional amount in an ISA, up to the value of their spouse's or civil partner's ISA savings at the time of their death, without this amount counting against the surviving spouse's/civil partner's normal ISA subscription limit.

GENERAL ANTI-ABUSE RULES

HMRC has updated its guidance notes on the General Anti-Abuse Rule (GAAR) which sets out which tax arrangements are abusive under the legislation. The updated guidance is effective for transactions entered into on or after 30 January 2015. The changes simply clarify the guidance - there is no change in the law or HMRC's interpretation of it.

STRENTHENING SANCTIONS FOR TAX AVOIDANCE

HMRC has published a consultation paper, 'Strengthening Sanctions for Tax Avoidance', setting out proposals to tackle the serial use of tax avoidance schemes.

Those who enter into tax avoidance schemes already face penalties. However, this consultation proposes additional financial costs, such as a surcharge and additional reporting requirements, on users of multiple schemes that fail. The consultation therefore seeks views on which are the most appropriate methods of tackling persistent avoiders, and how these ought to be developed.

The consultation also considers whether, and how, to introduce additional penalties in cases where the GAAR applies. The consultation period runs until 12 March 2015.

INCOME WITHDRAWAL RATE FOR FEBRUARY 2015

The appropriate gilt yield, used to determine the 'relevant annuity rate' from HMRC's tables for an adult member commencing income withdrawals (or reaching an income withdrawal review date), in February 2015 is 2.0%.