Technical
CONNECTION

# CONTENTS





Published by Technical Connection Ltd,
7 Staple Inn, London, WC1V 7QH.
Tel: 020 7405 1600 Fax: 020 7405 1601
E-mail: enquiries@technicalconnection.co.uk
www.techlink.co.uk

## PROPERTY SELLERS WARNED ABOUT CHANGES IN THE CGT RULES

The Chartered Institute of Taxation (CIOT) recently issued a press release warning property owners, who make taxable gains on their residential properties, to plan for a 'seismic change' in how tax is paid.

From 6 April 2020 UK residents who sell a residential property that gives rise to a capital gains tax (CGT) liability, e.g. a buy-to-let property, must send a new standalone online return to HMRC and pay the tax due within 30 days of completion of the sale. This new filing and payment timeframe is, of course, different from the current position where taxpayers have until the self-assessment deadline (31 January after the tax year in which the disposal is made) to complete a tax return and pay the CGT.

The current system means that, depending on the timing of the sale, CGT is due anything from 10 months to 22 months after the sale or disposal. The new 30-day deadline means people will have less time to calculate the CGT, report the gain and pay any tax.

The new return will need to be done online, requiring taxpayers to have a Government Gateway account to either submit the return themselves or to digitally authorise a tax agent to do it for them.

The CIOT has also received confirmation from HMRC, for the avoidance of any doubt, that the new reporting and payment regime applies only to taxable gains accruing on disposals of UK residential property made on or after 6 April

2020 (in the tax year 2020/21). This means that where contracts are exchanged under an unconditional contract in the tax year 2019/20 (6 April 2019 to 5 April 2020) but completion takes place on or after 6 April 2020 the 30 days filing requirement does not apply. The gain should be reported in the 2019/20 self-assessment return in the usual way.

If, however, exchange of contracts takes place on or after 6 April 2020, or the contract is conditional and the condition is not satisfied until after 5 April 2020, a return will be required within 30 days of completion of the transaction together with a payment on account within the same 30 days' timescale. The disposal will also need to be reported in the normal self-assessment return and at that point any loss relief or claims for CGT deferral can be dealt with.

Those selling second properties or buy-to-let properties on or after 6 April 2020 will be brought within the scope of these new rules and will therefore need to ensure that they plan ahead to meet the necessary deadlines otherwise they could face penalties. They will also need to have an understanding of their income position as the rate of CGT applicable will depend on their income for the whole of the tax year.

## THE TREASURY HAS PUBLISHED DRAFT REGULATIONS SETTING OUT THE 2020/21 NIC LIMITS

In recent years Budget contents have been so well trailed that the event has almost become an anti-climax. Sajid Javid, who was the Chancellor of the Exchequer until quite recently, took one step further by issuing a Treasury news story announcing '31 million taxpayers to get April tax cut'.

If that sounds eerily familiar, it is. When National Insurance contributions (NICs) rates are increased or bands widened, politicians go out of their way not to describe NICs as a tax. However, NICs have now become a 'tax', in the former Chancellor's eyes, because his proposed changes will reduce the NICs bill for most employees and the self-employed. However, announcing a reduction in NICs does not have the same headline-grabbing potential as a tax cut.

The 'cut' is a further replay of the Conservatives' manifesto pledge to 'raise the National Insurance threshold to £9,500'. Irritatingly the £9,500 pledge means that the annual primary threshold will no longer be 52 times the weekly figure. The maximum saving for an employee is £104 a year, based on a comparison with the 2019/20 threshold, or £87 a year if, as the Institute for Fiscal Studies suggests, you assume that the threshold would have increased by £3 a week in any event by virtue of indexation.

What might surprise many is that the rise in the primary (employee's) Class 1 threshold is not flowing across to the secondary (employer's) Class 1 threshold, which is simply being increased in line with inflation (1.7% CPI to September 2019). A look back at the costings document published alongside the Conservatives' manifesto shows that this was always the plan, even if it was never explicitly stated. To have included employers in the threshold increase would have more than doubled the £2.17bn cost to the Exchequer, based on HMRC's ready reckoner.

A smaller surprise is that the draft regulations, detailing the new NIC thresholds, make no changes to the upper earnings limit and upper profits limit, which stay at £50,000. Unless the new Chancellor intends to break the link between these limits and the higher rate tax threshold, the freeze suggests that there will be no amendment to the Finance Act 2019 legislation fixing the personal allowance at £12,500 and basic rate limit at £37,500 for both 2019/20 *and* 2020/21.

The proposed new NIC thresholds are shown in the table below. Note that the new 2020/21 Employment Allowance £100,000 eligibility ceiling is currently in draft legislation, but the allowance increase from £3,000 to £4,000 is so far only a (costed) Conservative manifesto pledge.

**National Insurance Contributions**

| **Class 1 Employee** | | | | |
|---|---|---|---|---|
| | **2019/20** | | **2020/21** | |
| | ***Employee*** | ***Employer*** | ***Employee*** | ***Employer*** |
| Main NIC rate | 12% | 13.8% | 12% | 13.8% |
| No NICs on first:<br>Under 21*<br>21* & over | <br>£166 pw<br>£ 166 pw | <br>£962 pw<br>£166 pw | <br>£183 pw<br>£ 183 pw | <br>£962 pw<br>£169 pw |
| Main NIC charged up to | £962 pw | No limit | £962 pw | No limit |
| Additional NIC rate on earnings over | 2%<br>£962pw | N/A | 2%<br>£962pw | N/A |

* 25 for apprentices

| **Employment Allowance** | | |
|---|---|---|
| | **2019/20** | **2020/21** |
| Per business* | £3,000 | £4,000+ |

* Not available if a director is the sole employee
+ Only available if 2019/20 secondary NICs were less than £100,000

| ***Limits and Thresholds*** | **2019/20** | | **2020/21** | |
|---|---|---|---|---|
| | **Weekly £** | **Yearly £** | **Weekly £** | **Yearly £** |
| *Lower earnings limit* | 118 | 6,136 | 120 | 6,240 |
| Primary earnings threshold | 166 | 8,632 | 183 | 9,500 |
| Secondary earnings threshold | 166 | 8,632 | 169 | 8,788 |
| Upper secondary threshold – U21s* | 962 | 50,000 | 962 | 50,000 |

* 25 for apprentices

| ***Self-employed and non-employed*** | **2019/20** | **2020/21** |
|---|---|---|
| **Class 2** | | |
| Flat rate<br>Small profits threshold | £3.00 pw<br>£6,365 pa | £3.05pw<br>£6,475pa |
| **Class 4** (*Unless over state pension age on 6 April)* | | |
| On profits | £8,632– £50,000 pa: 9%<br>Over £50,000 pa: 2% | £9,500 – £ 50,000 pa: 9%<br>Over £ 50,000 pa: 2% |
| **Class 3 (Voluntary)** | | |
| Flat rate | £15.00 pw | £15.30 pw |

*The removal of matching thresholds for primary and secondary Class 1 contributions and the decision to stick with £9,500 rather than go to £9,516 (£183 x 52) adds to the complexity of the NICs system. Meanwhile the anachronistic Class 2 survives another year.*

# SWITCHING TO A MORE AFFORDABLE MORTGAGE – FCA UPDATE

The FCA introduced new rules on 28 October 2019 intended to help so-called mortgage prisoners. Generally, these are consumers who couldn't switch to a more affordable mortgage because of changes to lending practices during and after the 2008 financial crisis and subsequent regulation that tightened lending. These borrowers are often trapped on high variable rates, unable to re-mortgage to a cheaper deal because they no longer fit the profile of a 'good' borrower.

The FCA said it would separately review the extent that consumers of both inactive lenders and unregulated entities have switched to a more affordable mortgage with an active lender, based on the modified assessment. It wanted to estimate how many of these consumers may have been unable to switch as their circumstances have put them outside lenders' risk appetites.

Following on from that the FCA published further data on 22 January on the mortgage prisoner population.

**Key findings:**

- Around 250,000 people are in closed mortgage books or have mortgages owned by firms that are not regulated by the FCA.
- However, the FCA's research shows around 170,000 of these borrowers are up-to-date with payments and would be eligible to switch because of its new rules.
- Over half of the group that are eligible are paying interest of 3.5% or less. 39% are paying an interest rate of less than 3.0%.
- Of those eligible to switch, 40,000 have less than £50,000 to repay, many of whom have less than 10 years remaining on their mortgage.
- Both these sets of borrowers may find limited value in switching depending on the deals the FCA has found.
- The FCA estimates around 14,000 eligible mortgage prisoners should be both likely to meet commercial lending criteria and stand to make a meaningful saving.
- It adds that this aligns with the estimates published in its Consultation Paper on changes to the responsible lending rules in October 2019.

**Next steps**

The FCA says that it wants as many lenders as possible to offer a modified affordability assessment.  However, the evidence so far has shown little desire from larger lenders to adopt the changes. It is therefore calling on more lenders to step forward and offer products to mortgage prisoners in the coming three months.

**Treasury response**

Following on from that John Glen, Economic Secretary to the Treasury, has written a letter to Stephen Jones, Chief Executive Officer of UK Finance, reiterating that they expect lenders to take the lead.

## DRAFT REGULATIONS HAVE BEEN PUBLISHED SETTING OUT THE BENEFIT RATES FOR 2020/21

One of the side effects of an Autumn Budget arriving in Spring is that there has been a long wait to see what DWP benefit rates will be for 2020/21. That wait is now over, as draft up-rating regulations were issued on 30 January.

The main numbers to note are:

- The New State Pension (aka single tier) will rise by £6.60 a week (3.9%) to £175.20, an increase that is well above the current rate of inflation (1.3% on the CPI).
- The Old State Pension (aka basic) will rise by £5.05 a week (also 3.9%) to £134.25.
- Additional Pension, Graduated Pension and other pension increments will rise by 1.7%, in line with CPI inflation to September 2019.
- The four year long freeze on the main working-age benefits, such as Employment Support Allowance, Jobseeker's Allowance, Income Support and much of Universal Credit will end, with most benefits uprated by 1.7% from April.

***COMMENT***

*These numbers are as expected. However, as the National Minimum Wage (for workers aged 25 and over) will rise by 6.2% to £8.72 an hour from April, on the basis of a 35-hour week, the New State Pension will shrink from 58.7% of minimum pay to 57.4%.*

## MATURING CHILD TRUST FUND ACCOUNTS WILL RETAIN THEIR TAX-FREE STATUS

HMRC has now published a policy paper and regulations which confirm that maturing Child Trust Fund (CFT) accounts will retain their tax-free status from 6 April 2020.

It is estimated that six million CTF accounts were set up for children born between 1 September 2002 and 2 January 2011 and many may have forgotten that these accounts exist.

Even though the new rules apply from 6 April 2020, the first CTF accounts will mature in September 2020.

Broadly, these changes mean that providers will have the ability, upon instruction from the account holder, to transfer the investments at maturity to a tax-advantaged 'matured account.' The 'matured account' can be a continuing CTF account, or a cash ISA or stocks and shares ISA offered by the original CTF provider.

In the situation where the CTF provider has received no instructions on the future of the investments from the account holder, those investments must be placed, at maturity, in a ‘protected account’ pending instructions. Again, the ‘protected account’ can be a ‘matured account’ or a cash ISA or stocks and shares ISA offered by the original CTF provider.

The rules also state that the cash moved to an ISA won’t count towards the saver’s annual ISA subscription limit for that year. This means that if the matured amount is transferred into an ISA following September 2020, it will still be possible for the individual to use their annual ISA subscription limit to add to the same account in the tax year in question.

***COMMENT***

*This will no doubt be a welcome change for many, especially for those who may have forgotten that a CTF account exists given that their savings can continue to grow in a tax-free environment.*

## CONSULTATION ON THE PROPOSED CHANGES TO THE TRUST REGISTRATION SERVICE – A BRIEF SUMMARY

On 24 January the Government published its consultation on proposed changes to the Trust Registration Service (TRS). The consultation runs until 21 February 2020.

The *Money Laundering and Terrorist Financing (Amendment) Regulations 2019* came into effect on 10 January 2020. This was necessary in order to comply with the EU's Fifth Money Laundering Directive (5MLD). Although the UK is due to leave the EU, it has nevertheless agreed to adopt the Directive.

The provisions relating to trust registration have been delayed until 10 March 2020, following a more detailed technical consultation on its implementation. 5MLD requires not just public access to the trust register, but also that it is extended from trusts with UK tax consequences to include all express trusts. It was estimated that this could extend the number of registrable trusts from around 200,000 to as many as two million.

HMRC has now issued a detailed technical consultation on the Government’s proposals (including draft legislation) to extend the TRS to comply with the 5MLD. This deals with the types of express trust that will be required to register, data collection and sharing, and penalties.

The Government is interested in views on whether the draft regulations adequately reflect the Directive in terms of the scope of registration, the information to be collected and the framework for making data sharing requests.

These are the key points of relevance to financial advisers:

- The existing TRS will be expanded to include UK express trusts and some non-EU resident express trusts irrespective of whether the trust has incurred a tax liability.

- It is proposed that all express trusts will be required to be registered unless they fall within one of the categories designated as “Out of scope”.

The “Out of scope” trusts are to include the following:

- Statutory trusts, such as those arising on intestacy or necessary solely for the purpose of jointly owning a home.

- Trusts arising by virtue of ownership of an asset such as a joint bank account.

- Maintenance fund trusts for historic buildings.

- Approved share option and profit-sharing schemes.

- Vulnerable beneficiary trusts.

- Personal injury trusts.

- Trusts consisting solely of a life policy which is a pure protection policy and payment is not made until the death or terminal illness of the insured.

- Pension scheme trusts that are registered with HMRC on 'Pension Schemes Online' or 'Manage and Register Pension Scheme'.

- Charitable trusts.

- Trusts already registered in an EU member state.

***COMMENT***

*Fortunately, it appears that the Government does not intend to include absolutely all trusts in the expanded TRS and this will be a relief for a number of trustees/advisers. In particular, the proposal that trusts of pure protection life policies, registered pension plans and statutory trusts are omitted is most welcome.*

## INTESTACY – INCREASED STATUTORY LEGACY FOR PARTNERS

A statutory instrument (The Administration of Estates Act 1925 (Fixed Net Sum) Order 2020) has been laid, increasing the net sum that a surviving spouse or civil partner is entitled to receive if a person dies intestate leaving "issue".

This statutory legacy has been increased from £250,000 to £270,000 with effect from 6 February 2020 for deaths occurring on or after 6 February 2020.

Generally speaking, the term "issue" is used instead of "children", but "issue" has a wider meaning and includes the lineal descendants, i.e. children, grandchildren etc.

## THE WITHDRAWAL AGREEMENT AND BENEFITS AND PENSIONS FOR UK NATIONALS IN THE EEA OR SWITZERLAND

The Department for Work and Pensions has issued its guidance on The Withdrawal Agreement and UK State Pensions and benefits.

**Living in the EEA or Switzerland on 31 December 2020**

The Withdrawal Agreement covers those UK nationals living in an EEA state or Switzerland on 31 December 2020. If this applies, the individual will get their UK State Pension uprated every year for as long as they continue to live there. They will be eligible for the uprating even where they don't claim their pension until on or after 1 January 2021. In addition, those working in the EEA or Switzerland will be able to count future social security contributions towards meeting the qualifying conditions for their UK State Pension.

**Moving to an EEA state or Switzerland after 31 December 2020**

Those who move to live in an EEA state or Switzerland after 31 December 2020 will not be covered by the Withdrawal Agreement. The entitlement to UK benefits will depend on the outcome of the negotiations with the EU. They will continue to receive their entitlement to their UK State Pension as long as they meet the usual qualifying conditions (i.e. sufficient National Insurance credits etc). However, there is no guarantee these will be uprated.

**Moving to Ireland from 1 January 2021**

The position for those moving to Ireland has already been agreed and those UK nationals moving to Ireland from 1 January 2021 will continue to get their UK State Pension uprated.

## MONEY & PENSIONS SERVICE LATEST

The Money & Pensions Service (MaPS) has set out its strategy to improve the UK's financial wellbeing, identifying five priority areas to help people make the most of their money and pensions. They hope that by 2030 they will achieve the following goals:

- Financial Foundations – 2 million more children getting a meaningful financial education.
- Nation of Savers – 2 million more working-age 'struggling' or 'squeezed' people saving regularly.
- Credit Counts – 2 million fewer people using credit for food and bills.
- Better Debt Advice – 2 million more people accessing debt advice.
- Future Focus – 5 million more understanding enough to plan for, and in, later life.

Initially MaPS will work with leaders and experts to set out clear delivery plans to achieve the five goals and create specific plans for England, Scotland, Wales and Northern Ireland.

## INCOME WITHDRAWAL RATE FOR FEBRUARY 2020

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 2020 is 1.0%.