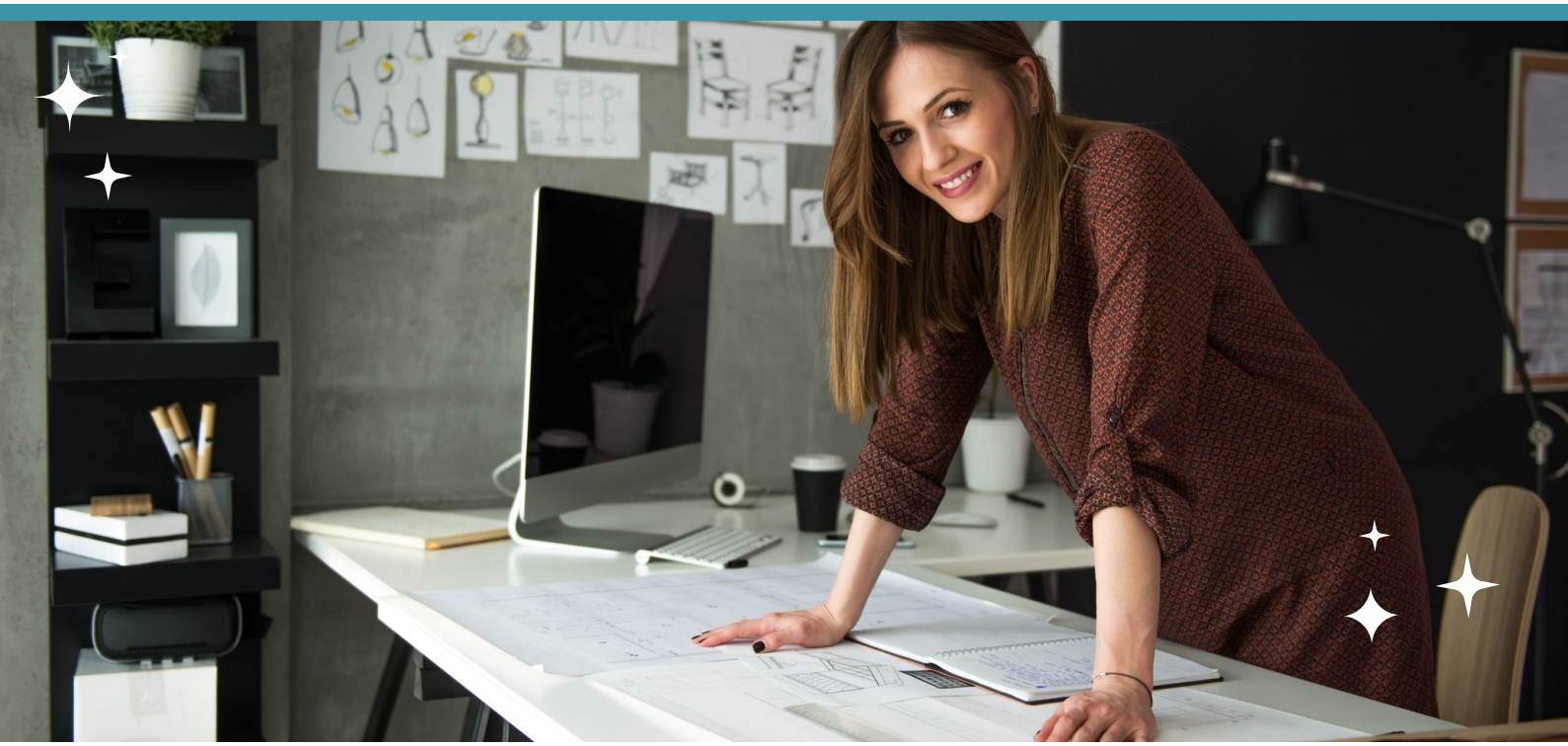
Sibbalds
CHARTERED ACCOUNTANTS

paylesstax 2019 Year End Special



Do you have more than one employment?

If you are a director or simply an employee your earned income, through the Pay As You Earn (PAYE) system, could be liable to suffer Class 1 National Insurance (NI).

There are a number of factors which could affect the level of Class 1 NI you may pay. However, in broad terms, based upon the 2019/20 tax year, the first £8632 of earned income is exempt from any Class 1 NI liability (known as the Primary Threshold limit), whilst the income between £8632 and £50,000 would normally attract a Class 1 NI liability at a rate of 12%. Any earned income in excess of £50,000 would be hit for a 2% charge.

For example:

Tom has one employment and earns £5,000 a month (£60,000) a year. During the 2019/20 tax year, through the PAYE system, he will suffer Class 1 NI of £5164.

What happens if Tom has two employments?

Well, if Tom earns £30,000 from his other employment, the second employer will deduct Class 1 NI of £2564. In total across the two employments he has suffered £7728 of NI deductions.

Could Tom have paid too much Class 1 NI because of having multiple employments? There is, to some extent, a limit to the amount of Class 1 NI which should be deducted. If that limit was applied to Tom's circumstances he should only have paid, across the two employments, Class 1 NI of £5592. He has overpaid Class 1 NI by £2136. He can claim this back from HMRC at the end of the tax year and he can also make a claim for earlier years, if the circumstances fit.

Going forward, if Tom continues to have multiple employments and the relevant conditions are complied with, he can make a Class

1 deferment application. If HMRC accept the application, then the second employer would be notified to collect Class 1 NI at a reduced rate of 2% on any earned income from that employment above the Primary Threshold limit for that particular tax year. A cash flow advantage to Tom. A successful deferment claim only lasts one tax year so should be applied for annually, where circumstances persist. An application can be made for either the current tax year or the next tax year. Where the application is for the current year it needs to be agreed by HMRC and notified to the employer in question by 14th February. If so, the employer could refund the excess Class 1 NI deducted to date.

Do you have more than one employment, or have you had in the past? It might be worthwhile checking to make sure the correct amount of Class 1 NI has been collected.

Top tip:

For one reason or another, there are millions of pounds of unallocated National Insurance contributions (NI) held by HMRC. It is strongly advised you should review your NI records at least every 5 years, whilst it is fresh in your memory, to ensure they are correct and up to date. National Insurance contributions protect your rights to certain state benefits and contribute to calculating your state pension. We are happy to carry out both sets of reviews for you.

Residential Property – Early Return

At the present moment, if you are a UK resident taxpayer and you sell a residential property, which is not your main residence, any gain arising from it would be liable for Capital Gains Tax at a rate of either 18% or 28%. You would normally declare that gain on your self-assessment tax return and you would pay the tax over to HMRC by 31st January following the end of the tax year in which you made the property disposal.

For example:

Isabelle owned a rental property but sold it in May 2019. She made a capital gain on the sale of the property. She declared the gain on her 2019/20 self-assessment tax return and will pay over the tax on 31st January 2021.

After 5 April 2020, if you sell a residential property which makes a gain liable to Capital Gains Tax, you will have to report the disposal to HMRC within 30 days of the completion of the sale. At the same time, you will also need to calculate the Capital Gains Tax due and pay it over to HMRC.

So, in Isabelle's case, if the property was sold on 1st May 2020, she would need to make a Return of that sale by 31st May 2020 and also pay the tax over by the same date. This is clearly a cash flow disadvantage in comparison to the present situation. If you are contemplating selling a property in the not too distant future, is this cash flow impact enough to make you want to push a sale through before 6 April 2020?

Top tip:

Remember, if the property you have sold has been your main residence at some point in time in the previous 18 months (Scotland) or 36 months (rest of the UK), and you paid additional land taxes on purchasing your present main residence (an extra 4% in Scotland or 3% in the rest of the UK), we may be able to claim that money back for you.

Off Payroll working is coming to town

Subject to the Finance Act 2020 being enacted, if you are a large or medium sized business and you engage a worker either directly through their Personal Service Company (PSC) or via another intermediary (for example an agency) then, you, as the 'client' need to carry out a review of their work status in advance of 6th April 2020 as, what are called, the off payroll working rules for the Private Sector then come into play. These rules have been in place for the Public Sector already since April 2017. HMRC's aim is to make sure that workers, who would have been an employee if they were providing their services directly to you, the client, pay broadly the same tax and National Insurance contributions as your employees.

If you take the view that the worker is a "deemed" employee then Pay As You Earn (PAYE) tax and National Insurance should be deducted. This should be deducted either by yourself, where the worker is contracted direct, or by the intermediary (an Agency, for example) if they are contracted through a third party. You, though, as the 'client' have the responsibility to carry out the Status Review. You are then duty bound to provide the worker, and any other organization (e.g. agency) with whom you have a contract in connection with that worker, a status determination notice which details the decision you have made and the reasons why you have reached that opinion. The worker or the organisation concerned might disagree with your view and appeal against it. You then have to consider their appeal within 45 days, either upholding their appeal or reconfirming the initial status determination and the reasons for doing so. It is important that the reasoning behind your decision is documented and well thought out as HMRC may well request sight of that considered opinion if they decide to carry out a status inspection at a later date.

Failure to follow these procedures correctly, where required, could result in your business picking up the whole of the tax and national insurance tab on behalf the worker.

Top tip:

Reviewing the 'employment' status of the worker is a highly complexed and specialised job. It is also important to budget and plan for any increase in business costs (for example Employers' National Insurance) which could fall upon you as a result of the off payroll tax regime for the Private Sector potentially being introduced from 6 April 2020. We are happy to assist you in all respects regarding this matter.

Main Residence Dilemma

There are a couple of proposals within the draft Finance Bill 2020 which are due to come into play from 6 April 2020. If these are enacted it could have a significant negative tax impact upon people who sell a property which was once, but is no longer, their main residence.

Presently, if you sell a property which has been your main residence throughout your ownership period, any gain you make on the sale is completely tax free. It is sometimes referred to as Principal Private Residence Relief (PPR). If you lived in the property for a period as your main residence but no longer do so and subsequently sell it, then, depending upon the circumstances, PPR relief may be restricted to the time you occupied the property as your main residence and the last 18 months of ownership, even if you did not reside there during that time. From 6th April 2020, it is proposed to reduce that 'last 18 months' to only 9 months. On top of that if you let the same property out at any time you can presently reduce your potential capital gain further by up to £40,000 per person. This is called letting relief. The proposal is that from 6th April 2020, letting relief, except in extreme cases, would no longer be available. Effectively, to be eligible to access the letting relief upon sale, you would need to have occupied the property at the same

time as your tenant. If you sell after the 5 April 2020 there are no transitional rules to apply the present letting relief rules up to that date for properties let out prior to that date but subsequently sold.

Let's look at an example. John and Emily are both higher rate taxpayers. They jointly bought a house 10 years ago for £200,000 and they occupied it as their main residence for 5 years. After that they rented it out throughout the remaining ownership period. They have just sold the house for £600.000. Taking account of PPR relief, letting relief and the current Capital Gains Tax (CGT) annual exemptions of £12,000 each, they would have a combined CGT liability of £10080. From 6 April 2020, if the proposals are enacted, their joint CGT liability would increase to £40880. Don't forget that the tax would also have to be paid across to HMRC within 30 days following completion of the sale!

Is this enough to make you want to sell your old main residence prior to 6th April 2020?

Top tip:

If you are contemplating selling your previous main residence please speak to us first as your circumstances may lend themselves to other PPR reliefs which could reduce your Capital Gains Tax liability still further.

The tax year of separation

It is always an emotional and stressful time when married couples or civil partners separate and then divorce. In these circumstances, it is naturally understandable that a knee jerk reaction is to contact your local solicitor first. **It would also be advisable to talk to your accountant at the same time, as failure to focus on the tax issues can have further emotional and negative financial consequences.**

If the warring couple can agree to do so, **it is best to transfer assets between themselves during the tax year in which they separated** as Capital Gains Tax is avoided. If the transfer takes place after the year of separation then, potentially, the spouse making the transfer could be liable to pay Capital Gains Tax.

For example:

Lucinda pays tax at 40% on her income. She is married to Joy. Sadly, they have separated and, as part of the of settlement arrangements, it is agreed that Lucinda transfers her ABC plc shares to Joy. Lucinda bought those shares for £10,000. They are now worth £100,000. A gain of £90,000. By transferring them across in the tax year of separation there is no potential Capital Gains Tax to pay. In broad terms, transferring them after that tax year could result in a capital gains tax liability of up to £18,000.

Top tip:

How marriage or a civil partnership will impact upon you, your partner and children from a tax perspective should be looked at by way of a marital/civil partnership review taking account of your personal circumstances. We are happy to provide such a review.

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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