

JTC NEWSLINE

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Reverse Charge VAT delayed

HMRC have announced a delay to the introduction of the domestic reverse charge for construction services until 1 March 2021 due to the impact of the COVID-19 on the construction sector. Additionally, they have made it a requirement that in order for businesses to be excluded from the reverse charge because they are end-users or intermediary suppliers, they must inform their sub-contractors in writing that they are end-users or intermediary suppliers.

The new regime was originally due to start in October 2019. The start date was then moved to October 2020 because of several factors, a lack of readiness by the industry and software companies, and the toll Brexit exerted on HMRC's resources. HMRC claim that reverse charge is important in combating supply chain VAT fraud in the industry. It remains to be seen whether the industry will be able to cope with the changes by March 2021. ■

Off-payroll rules will start 6 April 2021

Draft legislation dealing with off-payroll working in the private sector from April 2021 has been added to Finance Bill 2020 despite the recent conclusions by the House of Lords' Economic Committee that the rules are flawed and need a re-think.

The only change of note is the already announced delay to the start date, to 6 April 2021, due to the Coronavirus pandemic. It seems that for now at least, the government intends to leave the IR35 and off-payroll working rules intact. ■

Coronavirus Job Retention Scheme

What employers need to/ can do from 1 July 2020

- They can start the flexible furloughing of employees from 1 July. Employers can decide what hours and shift patterns employees work to suit the needs of your business. Employers will pay the wages for the time employees are in work and can apply for a CJRS grant to cover any of the usual hours for which the employee is still furloughed. Employees can be kept on full furlough if needed.
- Claim for periods ending on or before 30 June, must be made by 31 July. ■

Late filing and payment penalties

- HMRC are supporting taxpayers by providing the option to defer VAT payments between the period 30 March to 30 June 2020 and the July 2020 income tax self assessment payment on account.
- Taxpayers should continue to pay and file on time where possible, but HMRC will accept COVID-19 as a 'reasonable excuse' for people who are late filing their returns or paying their tax. The relevant penalties will be cancelled, provided they have managed to file or pay as soon as they were able to.
- HMRC are giving taxpayers an extra three months to appeal or request a review, on top of the normal 30-day limit.
- If an individual cannot pay their tax because of COVID-19, HMRC may be able to agree 'time to pay' arrangements, on a case-by-case basis and tailored them to meet their individual circumstances. If you/your clients want to talk about available options, call 0800 024 1222. ■

New guidance for employers from the Pensions Regulator, what you need to know

Whether you offer a defined benefit (DB) or a defined contribution (DC) pension scheme, go to The Pensions Regulator's (TPR) COVID-19 hub where you'll find all its guidance for employers.

Automatic enrolment

- Automatic enrolment and re-enrolment duties still apply as normal, whether your staff are still working or are being furloughed as part of the CJRS.
- You also need to keep paying the correct contributions.

TPR has added guidance on how the changes to the CJRS affect pension contributions, how to calculate contributions for part-time furloughed workers, technical guidance for larger employers (e.g. salary sacrifice arrangements) and what to do if you are struggling to meet pension contributions. ■

COVID-19 the tax treatment of reimbursed expenses for home office equipment and returning office equipment

- The government has introduced a temporary new exemption so no Income Tax or NICs liabilities will be due on reimbursed expenses for the purchase of home office equipment from 16 March 2020 until 5 April 2021.
- If you have supplied your employees with office equipment to allow them to work from home, without a transfer of ownership, there is no tax charge when they return the equipment to you.
- If you transfer the ownership of the equipment to the employee at any stage of their employment, a benefit charge arises on the market value of the equipment at the time of the transfer, less any amount made good by the employee. (So wait till an employee is about to leave and then consider what to do

about any remaining value)

The measures were announced by the Financial Secretary to the Treasury on 13 May 2020:

"To support employees who are working from home and need to purchase home office equipment as a result of the coronavirus outbreak, a temporary tax exemption and National Insurance disregard will come into effect to ensure that the expense will not attract tax and NICs liabilities where reimbursed by the employer. The expenditure must meet the following two conditions to be eligible for relief:

1. That equipment is obtained for the sole purpose of enabling the employee to work from home as a result of the coronavirus outbreak, and
2. The provision of the equipment would have been exempt from income tax if it had been provided directly to the employee by or on behalf of the employer (under section 316 of ITEPA).

The exemption is a temporary measure and will have effect from the day after the regulations come into force until the end of the tax year 2020/21.

HMRC will exercise its collection and management discretion and will not collect tax and NICs due on any reimbursed payments made from 16 March 2020 (the date the government recommended working from home) to the date these regulations take effect. ■

COVID-19: the day to day expenses of working from home

- Employees may be required to work from home in order to self-isolate or if their workplace has closed as a result of government measures to prevent the spread of coronavirus.
- Additional costs incurred by such employees may or may not be reimbursed by their employer.

continued on next page

- If costs are not reimbursed, tax relief may be claimed directly from HMRC.
- Employees who work from home by choice are treated differently. They cannot claim tax relief from HMRC if their employer does not reimburse their expenses.
- When home-working expenses are reimbursed by employers to their employees, the tax treatment will depend on the nature of the expense.
- The general rule is that a deduction for employment expenses is allowed from earnings if the necessary conditions of s.336 ITEPA 2003 are met.

1. The employee is obliged to incur and pay the home-working expenses as a holder of the employment.
2. The home-working expenses are incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

These may look easy and reasonable tests to pass but the court cases show that actually almost nothing and no one qualifies.

As a useful alternative, HMRC allows a Home Working Allowance of £6 per week from 6 April 2020 (£4 per week up to 5 April 2020) to be paid to employees for additional household expenses incurred while working from home, tax-free.

If a broadband internet connection is necessary to work from home and one was not previously available, the broadband fee can also be reimbursed to the employee and is non-taxable. If the employee already has broadband installed for private use, no claim is allowed.

Some expenses reimbursed to employees are taxable. For example, hotel expenses reimbursed to employees who are unable to self-isolate in their own home or expenses paid under voluntary home-working arrangements, which are not affected by COVID-19. ■

Income Tax relief for non-reimbursed expenses

If an employee is obliged by the government advice to work from home and has incurred home-working expenses that meet the conditions of section 336 ITEPA 2003 but has not been reimbursed by their employer, the employee may claim a deduction on their tax return.

If the employee is not required to file a tax return for the tax year to which the home working expenses relate, a claim for tax relief can be made to HMRC by completing and submitting Form P87.

Care should be taken to ensure the conditions of section 336 have been satisfied as they are restrictive. The conditions of s.336 will not be met if the employee is working from home under a voluntary arrangement.

As an alternative to claiming actual expenses, employees may claim HMRC's home working allowance.

HMRC specify in their guidance that the Form P87 claim should be made:

1. Online if it relates to multiple tax years and up to five different jobs.
2. By post, if made on behalf of someone else or it relates to more than five different jobs.
3. By phone, if a claim has already been made in a previous year and the total expenses are less than £1,000 or £2,500 if including professional fees. ■

Reminder for reporting expenses and benefits for the tax year ending 5 April 2020

The deadline for reporting any expenses and benefits is 6 July 2020.

HMRC need employers to report online wherever they can, due to COVID-19. ■

COVID-19 financial scams and cyber-security

Criminals are taking advantage of Coronavirus and the package of measures to support people and businesses contacting businesses offering spurious financial support or tax refunds to try to get financial and personal information or infiltrate computer systems to steal data or demand ransom. HMRC have detected more than 95 COVID-related financial scams since March, most by text message.

HMRC's advice to businesses:

- **Stop:** If you receive a request to make an urgent payment, change supplier bank details or provide financial information, take a moment to stop and think.
- **Challenge:** Could it be fake? Verify all payments and supplier details directly with the company on a known phone number or in person first.
- **Check:** GOV.UK for information on how to recognise genuine HMRC contact and avoid and report scams.
- **Protect:** Contact your business' bank immediately if you think you have been defrauded.

Use the latest software, apps and operating systems on your phone, tablet or laptop. Forward suspicious emails claiming to be from HMRC to phishing@hmrc.gov.uk and texts to 60599. ■

Holiday pay and entitlement: changes to carrying forward annual leave

The Government has passed emergency legislation to relax restrictions on carrying leave between leave years during the Coronavirus pandemic. Most workers are entitled to 5.6 weeks of statutory holiday, split into four weeks under regulation 13 and 1.6

weeks under regulation 13A of the Working Time Regulations 1998. Holiday above this amount is 'contractual' leave and not within the scope of the legislation.

From 26 March 2020, where it has not been reasonably practicable for a worker to take some or all of the four weeks' holiday due to COVID-19, the untaken amount may be carried forward into the following two leave years. This does not apply if workers are still able to take leave.

Examples of where it may not be reasonable to take holiday include:

- Where the business has faced a significant increase in demand due to Coronavirus.
- The health of the worker and how soon they need to take a period of rest and relaxation.
- How long is remaining in the worker's leave year, can they take holiday later in the year?
- The ability of the rest of the available workforce to provide cover for a worker going on leave.

Carried leave is subject to further protections. If a worker asks to take carried holiday, you will need to provide a good reason to refuse their request. For further information, see GOV.UK or contact ACAS. ■

Paying HMRC paying Class 1A National Insurance Contributions (NICs)

Electronic payment for Class 1A NICs declared on your P11D(b) return for the tax year ended 5 April 2020 must clear into the HMRC account by 22 July 2020. Ensure your payment is correctly allocated by providing the correct payment reference. Use your 13 character Accounts Office reference followed by the numbers 2013. The reference should have no gaps between the characters. ■

COVID-19: early Corporation Tax repayment

HMRC have updated their Corporation Tax guidance covering situations where a company seeks repayment of tax before a return has been filed. Such a case may be where a business knows that it has suffered large losses due to the Coronavirus.

The most common example of this will occur when a company that has paid tax for:

- Accounting period 1 (AP1) on or before the normal due date of nine months and one day after the accounting period ends.
- During accounting period 2 (AP2) it believes it will make a loss that it intends to carry back to AP1.
- Until the accounting period has ended no allowable loss has crystallised and the company cannot anticipate losses/reliefs and obtain repayment unless it makes a special claim, see HMRC: CTM92090.

For a large company, paying tax by instalments, it will usually be liable to pay under the quarterly instalment payments regulations and will usually pay its Corporation Tax liability before it delivers its company tax return.

It may apply for repayment of the excess total liability for the accounting period is likely to be less than previously calculated, see HMRC:CTM92650. ■

**If you have a query on any item
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COVID-19: Business Income Manual, changes to trading activities

HMRC have updated the section in their Business Income Manual which deals with 'Crisis-driven changes to trading activities' to specifically cover Coronavirus.

Changes in trading activities

When a business starts carrying out an entirely new trade, completely unrelated to its previous activities, it is normally treated as the commencement of a separate trade.

- If the new activity is broadly similar to the existing trade it will not be a separate new trade and profits or losses should be merged with those of the existing trade.
- It will be a question of fact whether there is a new trade or an extension of the existing trade.

HMRC give the example of a restaurant business which starts manufacturing gowns and face masks and should be treated as the commencement of a separate trade. Whereas if a business that is already manufacturing clothing starts to manufacture gowns and face masks using the same staff and premises, it should be treated as an extension of the same trade.

Temporary breaks in trading activity

- Temporary breaks in trading activity are not a permanent cessation of trade for tax purposes.

For example, where a business closes its doors to customers, or otherwise stops trading during the COVID-19 lockdown period but intends to continue trading once restrictions are lifted, the trade will not be treated as ceasing, as long as, when activities resume, they are the same as those before the break.

- Where, in the end, that business does not resume, there will be a cessation.
- Where there is a cessation but a new trade has commenced and there are losses, care will be needed to ensure relief is maximised. For sole traders overlap relief should be considered. ■

COVID-19: FAQs: Coronavirus Job Retention Scheme

a good guide if you feel confused

Visit: <https://commonslibrary.parliament.uk/research-briefings/cbp-8880/>

The House of Commons has published a briefing paper, '**FAQs: Coronavirus Job Retention Scheme**' which answers 48 common questions on how the scheme works, who is eligible, how to deal with different circumstances and the employment law aspects of furloughing employees.

The Coronavirus Job Retention Scheme (CJRS) was announced on 20 March 2020, initially for three months but it has since been extended to 31 October, with changes to how the scheme works being introduced from 1 July. It allows employers to furlough employees and claim up to 80% of their wages back from the government, this reduces to 70% in September and 60% in October, subject to certain conditions.

Prior to 30 June 2020, furloughed employees were not allowed to undertake any work for the employer. From 1 July part-time working will be allowed under 'flexible furlough', with the employer covering wage costs for hours actually worked.

As the scheme is unprecedented, employers and their employees have had many questions about how it works, when it applies and how much they should claim. The queries answered in the briefing paper include:

- Do employers need to prove they cannot otherwise pay their employees?
- Does the Scheme cover director-employees?
- Can employees on sick leave/unpaid leave/family-related leave be furloughed?
- Can employees demand to be furloughed?
- How should employers select which employees to furlough?
- Can employers make redundancies while the Scheme is in effect?
- Does being furloughed affect annual leave/maternity rights/continuity of employment?
- What is 'flexible furlough'?
- What will happen when the scheme ends?

Though primarily aimed at MP's, the guidance is very detailed and covers a large range of issues from employment law and tax to some of the practical aspects that employers are currently facing, such as how to deal with different types of workers and circumstances.

It does however state "This is a fast-moving issue and all information should be read as correct at the time of publication (16 June 2020). ■"

Problems for labour provider Hudsons

Hudsons are a firm well known to many in construction. They have taken the CITB to court claiming that they are not leviable. They have so far lost their appeals and a war of words is exploding in public between them and the CITB.

The CITB have issued press statements that show that they do not seem to be rolling over quietly and believe they are owed £27 million and likely to win the final appeal to the Supreme Court. If you use Hudsons you may want to talk to them to hear their plans for their future. ■

COVID-19: Self-employed support scheme

another good guide if you feel confused

Visit: <https://commonslibrary.parliament.uk/research-briefings/cbp-8879/>

The House of Commons has also published a briefing paper, '**Coronavirus: Self-Employment Income Support Scheme**' which provides answers to 19 common questions on how the scheme works, who is eligible, and how to claim.

The Self-Employment Income Support Scheme (SEISS) was announced in March 2020 for self-employed businesses adversely affected by COVID-19. The first grant was payable for the period from 1 March to 31 May 2020. It was then extended by three months to 31 August, with a reduction in the amount which may be claimed for the second grant period.

The scheme provides for taxable grant payments of the lower of:

- £7,500 (if claiming for the first grant) or £6,570 (if claiming for the second grant) and
- 80% of average monthly profits over the three years 2016/17, 2017/18 and 2018/19 for the first three-month grant period, reducing to 70% of the same average profits for the second three-month grant period.

As the scheme has been rolled out and extended over the past few months, the self-employed have had many questions about how it works, when it applies and how much they can claim.

The FAQ's answered by the guidance include:

- What if I have fewer than three years' worth of tax returns?
- Why is there a £50,000 cap?
- Can I continue to trade or get a second job?
- How does the Scheme apply to people subject to the Loan Charge?
- What do I have to do after I receive my grant?
- What support is available to those not eligible for the SEISS?

This is a fast-moving area and anyone wishing to rely on the guidance after the original publication date of 23 June 2020 should check for updates and take professional advice. ■

Serial house mover denied private residence relief

The First Tier Tribunal (FTT) dismissed claims for Private Residence Relief for 3 properties sold in 3 consecutive years. The occupation of the properties did not have sufficient permanence or continuity for relief to apply.

A gain made on the disposal of an individual's only or main private residence is exempt from Capital Gains Tax (CGT) under Private Residence Relief (PRR). In order to claim PRR certain conditions must be met including that the property must have at some stage

been the individual's only or main private residence.

Mrs H bought and sold 3 properties, 1 in each of the tax years 2013/14, 2014/15 and 2015/16. She claimed to have lived in 2 of the properties for about 6 months and in 1 for 9 months. Each property was put back on the market for sale within 3 months of acquisition. This behaviour is often seen when people begin activity as builders/property developers. Warn others if you see it happening, **HMRC are vigilant.** ■

Take care: preventing abuse of the R&D tax relief for SMEs: Second consultation

The government has extended the closing date to its second consultation, *'Preventing abuse of the R&D tax reliefs for SMEs'*. The closing date is now 28 August 2020.

HMRC have identified fraudulent claims worth over £300 million in total, sometimes involving companies that were set up to claim payable tax credit even though they undertook no Research & Development (R&D). To prevent abuse of the SME scheme, Budget 2018 announced a restriction on the amount of R&D payable tax credits. Following its 2019 consultation, the government proposed that from April 2021:

- The amount of payable credit that a qualifying loss-making business can receive through R&D relief in any one year will be capped.
- The cap will be three times the company's total PAYE and NICs liability for that year.
- Claims below £20,000 will not be subject to the cap.
- Relevant related party PAYE and NICs can be taken into account when calculating the cap. ■

Professional conduct and Research & Development Tax Relief

The leading professional bodies have all recently published an agreed series of questions and answers which explain a member's duties in respect of taxation when they provide any service that contributes directly or indirectly to the preparation, submission, agreement of and advice on any or all aspects of a company's Research & Development (R&D) claim.

The new guidance also provides advice as what to do if anyone comes across a firm providing R&D tax credit advice which is not registered for Anti-Money Laundering (AML) Supervision or does not appear to be meeting the requirements. ■

Fuel scale charges (VAT)

What is the VAT fuel scale charge? What alternatives are there to the VAT fuel scale charge? Does the VAT fuel scale charge apply to vans?

If a business recovers VAT on road fuel, it will have to account for output VAT when a car it has provided to an employee (or the sole proprietor or partnership) is put to private use.

To simplify accounting for VAT on the private use of fuel, a business can choose to apply the VAT fuel scale charge. This adds back a fixed sum, per VAT period, to account for private consumption of fuel purchased by the business.

The scale charge is calculated according to a car's CO2 emissions and the fixed charge is added to output VAT, on the VAT return.

One scale charge must be used for each car that is put to private use.

The European Commission has confirmed that the UK can continue to use the fuel scale charge until at least 31 December 2020.

Alternatives to the VAT fuel scale charge

It may not be worth paying the VAT fuel scale charge, particularly if private mileage is very low.

The alternatives are as follows:

- The business can account for VAT based on exact business mileage, and therefore it will not claim VAT on any private mileage.
- It may pay a mileage allowance for exact business miles travelled and reclaim back VAT on that: HMRC publish approved Advisory Fuel Rates, which can be used to calculate the payments and the recoverable VAT.
- A business may decide that it will not reclaim any VAT on fuel costs (this is where business mileage is very low and private mileage is high). ■

Tax traps: Mileage payments

If you want to recover output VAT based on mileage payments made to employees, you must still ensure that employees submit fuel VAT receipts, proving that they have incurred costs and VAT on fuel. Without fuel receipts, HMRC may deny the VAT recovery on mileage reimbursements.

If you reimburse mileage at 45p and 25p, where employees use their own car, you cannot recover VAT on 45p/25p as this is supposed to represent the full cost of using the car: including depreciation, fuel, insurance etc.

Instead, you would only be able to recover VAT on the fuel element, using the advisory fuel rates or calculating your own fuel mileage rate, which would be subject to HMRC scrutiny.

Vans and commercial vehicles

It is assumed that the drivers of most commercial vehicles undertake little or no private mileage. If there is a significant level of private mileage VAT claims should be adjusted to exclude VAT on this. The fuel scale charge can only be used for cars. ■

Annual VAT scale charge rates - Accounting periods beginning on or after: 1 May 2020

CO2 emission figure	12 month VAT period	3 month VAT period	1 month VAT period
120 or less	£581	£144	£48
125	£870	£218	£72
130	£930	£231	£76
135	£986	£246	£81
140	£1,047	£261	£87
145	£1,103	£275	£91
150	£1,163	£290	£96
155	£1,219	£305	£101
160	£1,279	£319	£106
165	£1,335	£334	£111
170	£1,396	£348	£115
175	£1,452	£362	£120
180	£1,512	£377	£125
185	£1,568	£392	£130
190	£1,628	£406	£135
195	£1,684	£421	£140
200	£1,745	£436	£144
205	£1,801	£450	£149
210	£1,861	£464	£154
215	£1,917	£479	£159
220	£1,977	£493	£164
225 or more	£2,033	£508	£168