Safehands Accounting Ltd

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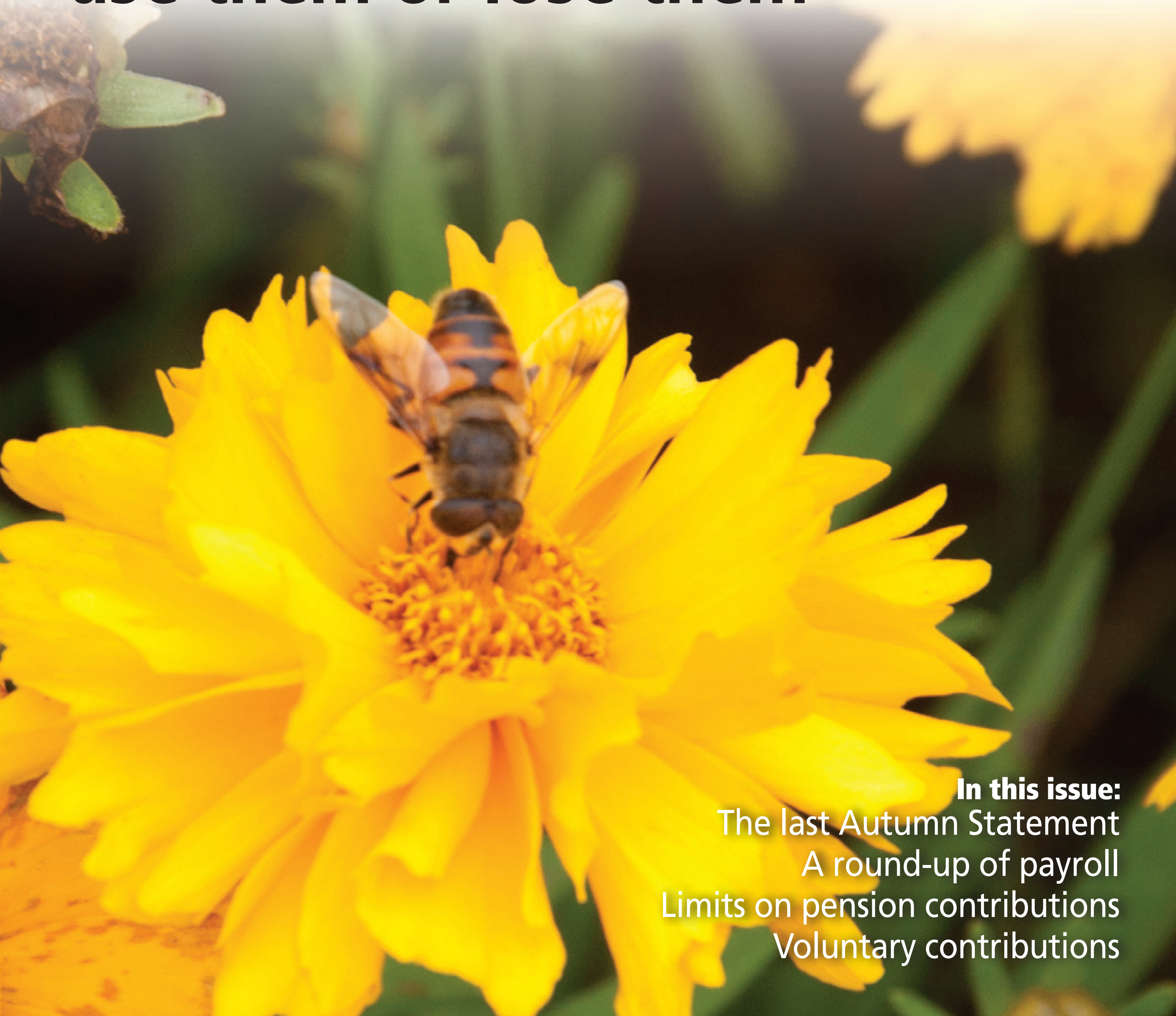
financial UPDATE

Tax allowances: use them or lose them



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The gig economy: reining in a giant

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It's been hard to miss the news coverage given to the tribunal decision on the employment rights of Uber drivers.

When it comes to disputes over employment classification, it's generally been a case of taxpayers wanting to establish self-employed status to benefit from the related tax advantages. However, the Uber drivers involved argued that they should be treated as employees, wanting entitlement to the national minimum wage, company pension contributions, holiday pay and sick pay.

The decision, if it stands, only applies to the Uber drivers involved in the case, but it would mean Uber having to amend contracts for all 40,000 drivers in the UK. The ramifications could extend throughout the so-called gig economy, to groups such as self-employed delivery drivers, food couriers, builders and even hairdressers. But it would depend on the working conditions in each case and whether workers want to be treated as employees.

Uber argued that it is a technology company rather than a taxi provider, and that its drivers are independent self-employed contractors who use the technology to make money. The company does not own a single vehicle. However, the tribunal dismissed as ridiculous the claim that it simply linked thousands of small businesses through a technology platform.

Many of the facts do support a case for self-employment. Uber drivers provide their own vehicles, pay for all the related costs (such as private hire insurance), are permitted to work independently or for other companies, do not wear an Uber uniform and are free to accept work only when they want to by turning the Uber App on or off.

However, when the Uber App is turned on, the relationship is one of employment, with drivers generally having to accept most of the work offered to them. Drivers do not know the name of passengers, do not know the destination until a journey begins, have little control over the route, have no control over the fee charged, do not collect the fee and are discouraged from accepting tips. Uber, rather than the driver, accepts the risk of any financial loss and deals with passenger complaints. The company exerts considerable control over drivers, even going as far as accepting only a limited choice of vehicles.

Uber has downplayed the decision and will be taking the case to the employment appeal tribunal. There could then be further hearings in the court of appeal and the supreme court. Watch this space.

The last Autumn Statement

The replacement of George Osborne as Chancellor by Philip Hammond has not brought about a significant change in tax policy. He also abandoned Osborne's target of ending the budget deficit in 2019/20, although this was largely an acceptance of the figures from the Office for Budget Responsibility (OBR).

Hammond's emphasis was on increased infrastructure spending in an attempt to boost the UK economy following the Brexit vote.

Hammond confirmed that corporation tax would be reduced to 17% in 2020, with a 19% rate from 1 April 2017. These rates are lower than basic rate income tax and may tempt some sole traders and partnerships to incorporate, but care needs to be taken because there are many other considerations in addition to the tax rate on profits.

Salary sacrifice schemes

The Chancellor also confirmed that the tax and national insurance advantages of most salary sacrifice schemes would be removed from April 2017, except for arrangements relating to pensions (including advice), childcare, cycle to work schemes and ultra-low emission cars. Arrangements in place before April 2017 will be protected until April 2018, and arrangements for cars, accommodation and school fees will be protected until April 2021. It remains the case that salary sacrifice schemes relating to pensions are ineffective in calculating 'adjusted income' for the purpose of tapering the annual allowance that limits contributions to pension plans.

One matter that attracted some attention was the confirmation that termination payments to employees of over £30,000, which are subject to income tax, would also be subject to employer's national insurance contributions. The government confirmed that tax would only be applied to the equivalent of an employee's basic pay if they have not worked their notice. The government will monitor this change and address any further manipulation. The first £30,000 of a termination payment will normally remain exempt from income tax and national insurance contributions.

Annual allowance

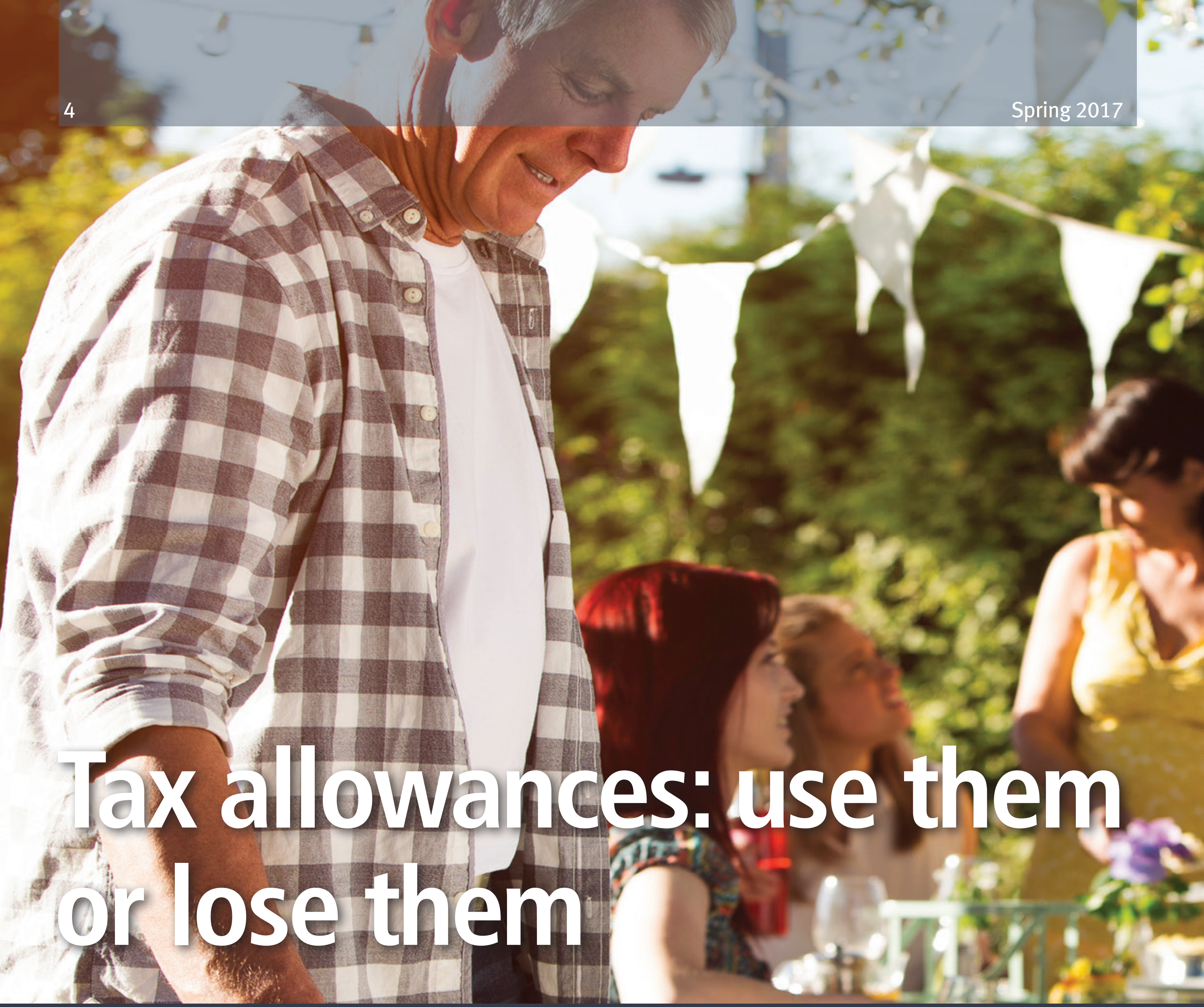
A new announcement was the reduction in the pensions money purchase annual allowance (MPAA) from £10,000 to £4,000. Individuals who have drawn any income benefits under the pension flexibility rules are subject to a reduced annual allowance if they continue to pay into a pension scheme. The restriction is aimed at limiting pension income being recycled as fresh, tax-relieved pension contributions. There may be some exemptions to the reduced allowance following consultation.

Income tax and allowances

There were no surprises when it came to income tax rates and allowances. The personal allowance will rise to £11,500 in 2017/18 and the higher rate threshold will be £45,000, except for Scottish taxpayers who will pay higher rate on income above £43,430. There will be two new income tax allowances of £1,000 each, set against trading income and property income. Changes to the domicile rules for long-term residents were confirmed. The ISA subscription limit will increase to £20,000, also as previously announced.

As expected, class 2 NICs will be abolished from April 2018. Class 2 NICs, which will rise to £2.85 a week from 6 April 2017, are now paid through self-assessment, along with Class 4 NICs which are based on profits. From 2018/19 benefit entitlement for self-employed people will be based on any class 3 voluntary NICs and their class 4 contributions. For 2017/18, class 4 contributions will be paid at 9% on profits between £8,164 and £45,000 and 2% on profits over £45,000.

This will be the last Autumn Statement of this nature. In future, there will be an autumn Budget and a spring statement, resulting in a welcome longer lead-in time for tax changes.



Tax allowances: use them or lose them

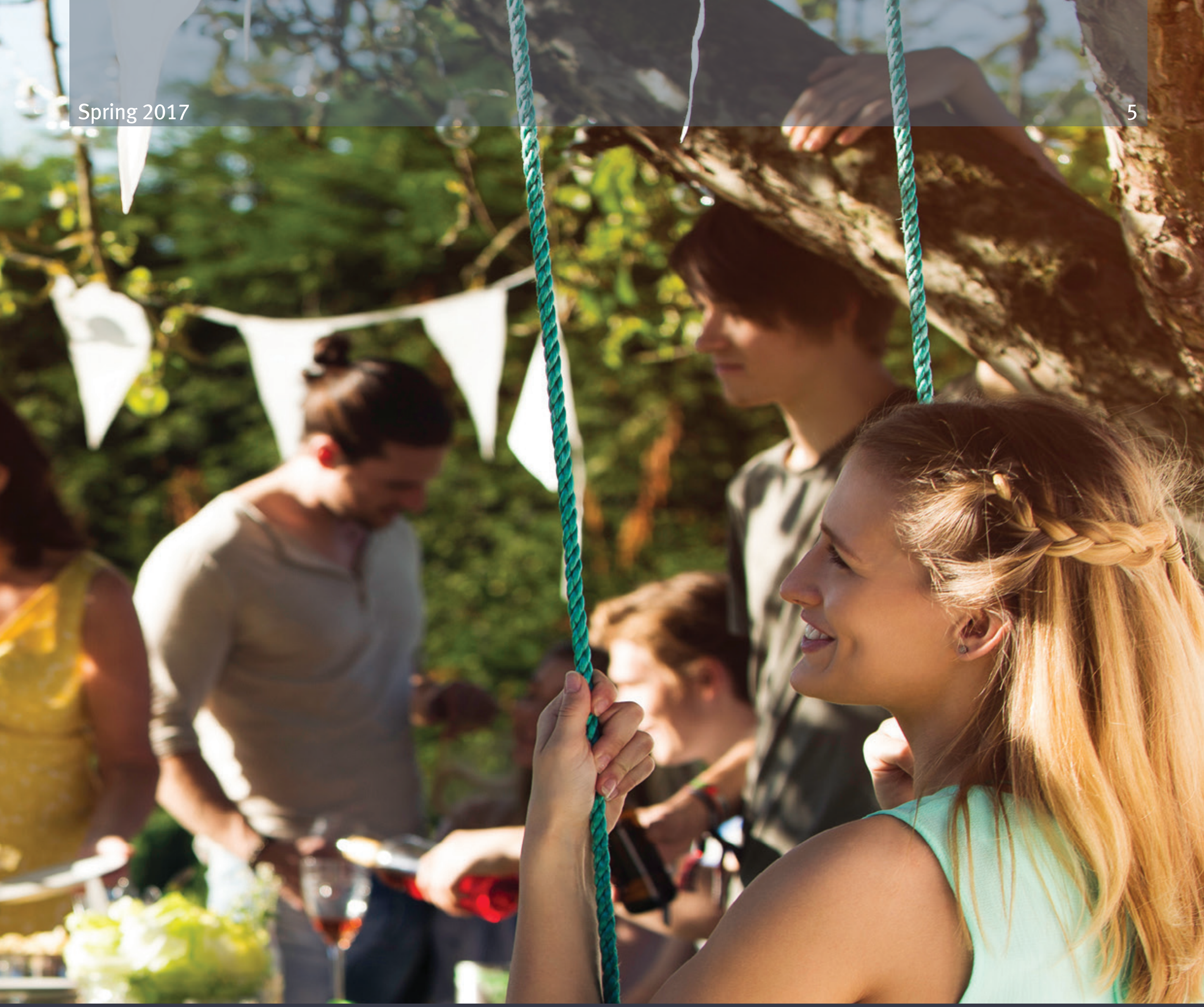
You can be late with a return or tax payment although the tax system penalise you for doing so. However, there are many instances where being just one day late will cost you the opportunity of exemptions and reliefs. So, with just a few months left until the end of the tax year, consider making use of the following before 5 April comes around.

Pension contributions: Making an additional pension contribution will be particularly beneficial if you have a high marginal income tax rate for 2016/17. Maybe you have income taxed at 40% or 45%, although the tax saving can be even higher if a contribution allows you to retain some or all of your personal allowance (income between £100,000 and £122,000), preserves a tax credits claim or means that you do not lose child benefit (income between £50,000 and £60,000).

Of course, such planning is much easier if you have a regular income or if you already know your self-employed profit for 2016/17. But watch for the limits on pension contributions for people with high incomes.

ISAs: With low interest rates and the introduction of a personal savings allowance, cash ISAs may not be particularly attractive right now. However, for 2016/17, an innovative ISA is available, allowing you to shelter £15,240 of peer-to-peer lending, although there could be higher risks with these investments. The introduction of the dividend nil rate band has similarly removed much of the attraction of stocks and shares ISAs, but they could still be worth considering by investors who can save capital gains tax at the higher 20% rate or have more than £5,000 of dividends. And don't forget the £4,080 that you can put into a junior ISA for each child or grandchild.

EIS and SEIS: Although both are high-risk investments, the risks are mitigated if you can benefit fully from the available tax reliefs. You could also invest in a professionally managed portfolio rather than in individual companies. With the SEIS, the combined income tax and capital gains tax (CGT) reliefs can save tax of up to 64%. A shareholding sold at a profit is tax-free and any loss should qualify for further tax relief. The deadline for 2015/16 is effectively 5 April 2017 because an investment made during the 2016/17 tax year can be carried back.



Venture capital trusts (VCTs): You can obtain 30% income tax relief by investing in VCTs. However, this is a longer-term investment and like EIS quite high-risk – although the 20 to 80 different companies that a VCT typically invests in should give a good level of diversification. There is no carry back option with VCTs.

CGT exempt amount: Aim to use your exemption of £11,100 by making disposals. If you have already made gains of more than £11,100 this tax year, dispose of investments standing at a loss to create a tax loss that can be set against the gains.

You can also establish a loss by making a negligible value claim – no actual disposal is involved. 5 April 2017 is the deadline for backdating a claim to 2014/15. It might also be beneficial to dispose of further investments if gains will only be taxed at the new basic rate of 10%.

Assets can be transferred between married couples and civil partners so that each can benefit from CGT planning. Although bed and breakfasting cannot be used to create a gain or loss by an individual, the same outcome can be achieved if the repurchase is by your partner or within an ISA.

Inheritance tax exemptions (IHT): Gifts up to £3,000 a year are exempt. If you have not used the exemption for 2015/16, you can make IHT-free gifts of up to £6,000 before 6 April 2017. Small gifts up to £250 per person in each tax year are also exempt from IHT.

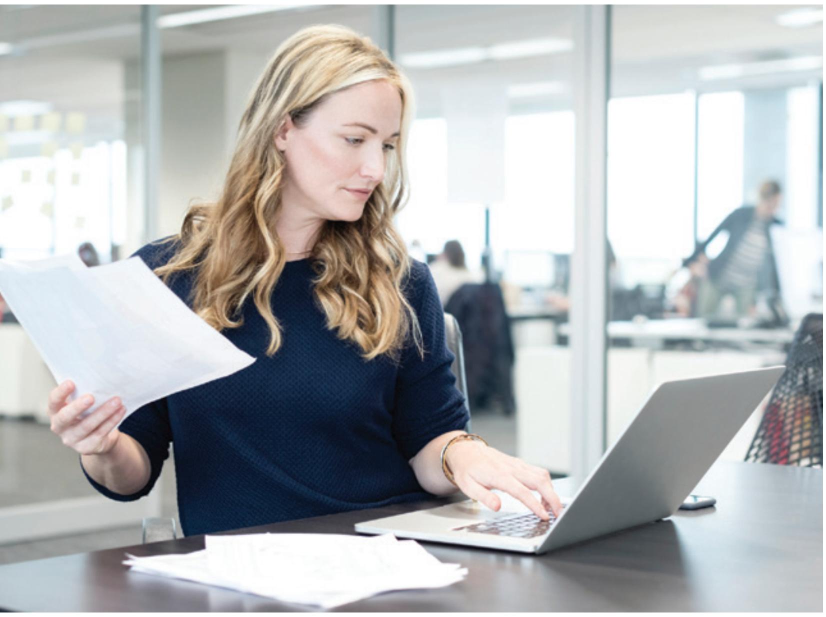
Advisory fuel rates – petrol rises

The latest update to HM Revenue & Customs' (HMRC) advisory fuel rates sees a couple of 1p increases to the petrol rates, with all diesel and LPG rates unchanged. HMRC's rates can be used where an employee pays for fuel in a company car and is reimbursed for business mileage. They can also be used where the company pays for fuel and the cost of private travel is reimbursed by an employee – avoiding a taxable fuel benefit.

Engine size	Petrol	Diesel	LP
1400cc or less	11p	9p	7p
1401cc to 1600cc	14p	9p	9p
1601cc to 2000cc	14p	11p	9p
Over 2000cc	21p	13p	13p

A round-up of payroll

If you are not using HM Revenue & Custom's (HMRC) payrolling benefits in kind service for 2016/17, you need to register online before 5 April 2017 if you want to use it for 2017/18.



It is advisable to register as soon as possible You will not be able to register after the start of the tax year – so if you miss the deadline you will have to wait for another year. Ensure that your payroll software can cope with payrolling before registering.

You can choose which benefits to payroll, but once the tax year has started, you will have to continue to payroll those benefits for the whole of the year – unless you stop providing them. HMRC will amend the tax codes for those employees receiving payrolled benefits. Any employee who does not want their benefits to be payrolled can be excluded.

With payrolling, taxable benefits are put through your payroll on a current basis in the same way as cash earnings. There are several advantages to this. Your employees pay the correct amount of tax when they receive the benefit, so self-assessment is more straightforward for those who need to complete a tax return. There is less administration for you because there is no need to report payrolled benefits on form P11D. Payrolling company car benefits will avoid the need to complete P46 (Car) forms.

Three-day grace period

HMRC can charge you penalties on a monthly basis if your real time PAYE submissions are late. There is no penalty for the first month in a tax year for which you make a late submission, but after that there may be a monthly late filing penalty depending on how many employees you have. This ranges from £100, for one to nine employees, to £400 if you have 250 or more employees.

HMRC has until now given you an extra three days to make submissions before applying a penalty. However, this three-day grace period is a concession and is due to end on 5 April 2017. Although HMRC has been reviewing its approach to charging penalties, you will need to take care that you file next year's returns on time.

If you do receive a penalty notice, remember that you can appeal if there is a reasonable excuse for late filing, for example an IT problem, ill health, a natural disaster or you no longer have any employees or did not pay any employees. Of course if you do not pay any employees, you are still expected to report this to HMRC.

Automatic enrolment penalties

The Pensions Regulator has reported a huge rise in the number of fines for not complying with automatic enrolment requirements. That is perhaps not surprising given that it is now the turn of smaller employers. Most employers with fewer than 50 employees having to automatically enrol them by 1 April 2017.

Penalties can be substantial, with even the very smallest of employers facing a daily penalty of £50 if they ignore a 28-day warning notice. If you have between 5 and 49 employees, the daily penalty is £500.

Auto-enrolment is not something you can leave to the last minute. There are some key dates for completing various tasks including choosing a pension scheme, establishing who you will have to enrol, writing to employees individually to explain how automatic enrolment applies to them and declaring your compliance.

Illness or being short-staffed are not accepted as reasonable excuses for non-compliance. Get in touch with us if you need advice.

An update on Making Tax Digital

The government's Making Tax Digital (MTD) initiative has been very controversial. From 2018, the self-employed and landlords will need to use software or apps to keep their business records, and to update HM Revenue & Customs on a quarterly basis – even though the due dates for paying tax will not change. Implementing MTD will be a major challenge if you currently keep your records on paper or use spreadsheets, and you will only be exempt from MTD if your annual turnover or income is below £10,000. The government has promised to publish its response to the MTD consultations in January 2017, and we will of course keep you informed.

Limits on pension contributions

Higher earners are now subject to tight limits on how much they can pay into tax-relieved pension schemes and it is essential to take care to avoid a substantial extra tax charge.

With the tax year coming to an end, this is a good time to review your pension planning. In particular, you should make sure you use up the less restrictive annual allowances for past years before you lose them.

The annual allowance

The annual allowance effectively limits pension contributions. The annual allowance is normally £40,000 if your 'adjusted income' is £150,000 or less, but is tapered down to £10,000 for adjusted income of £210,000 or more. Adjusted income consists of all your taxable income before deducting personal allowances, plus the value of certain pension contributions during the tax year, including employer contributions.

The annual allowance is reduced by £1 for every £2 of income above £150,000 down to a minimum of £10,000. There is one exception: if your 'threshold income' is no more than £110,000, the full annual allowance is still available. Threshold income is your income excluding any pension contributions (unless they are paid by your employer via a salary sacrifice).

If the input into your pension schemes is greater than the annual allowance, you may have to pay tax at your marginal rate on the excess. You will also not receive tax relief on any contributions you make over the allowance. Your pension provider should send you a statement if you go above your annual allowance, but if you are in more than one scheme, you will have to ask for statements from each.

Tapering the annual allowance started in 2016/17. The allowance was £50,000 in 2013/14, £40,000 in 2014/15 and £40,000 in 2015/16. Any unused allowance can normally be carried forward for up to three years. You can only use the annual allowance from earlier years after you have used the current year's annual allowance. So, for example, if your annual allowance for 2016/17 is £10,000 and you have £20,000 unused allowance from 2013/14, you would have to pay £30,000 by 5 April 2017 to use up all the 2013/14 allowance.

You will not be able to bring forward unused annual allowances from past years where you have already taken flexible pension benefits that include income and wish to make further payments to a defined contribution scheme. In those circumstances, your annual allowance is reduced to £10,000. This allowance, known as the money purchase annual allowance (MPAA), will fall to £4,000 from April 2017, although there may be some exemptions.

The lifetime allowance

The lifetime allowance could also cause you to face a tax charge if you exceed it. The lifetime allowance is £1 million in 2016/17, reduced from £1.25 million in 2015/16. Tax will only arise when you draw pension benefits, or at age 75 if you have not taken all your benefits by then.

If the value of your pension benefits is approaching £1 million, you might have to stop contributing to the plan, or draw your pension early, because investment growth may push the value over the lifetime allowance in future. The lifetime allowance will be index-linked from 2018 but this will only protect from inflation. The tax charge on any excess of benefits over the lifetime allowance is 25% if you withdraw the benefits as income and 55% on a lump sum.

With the lower annual and lifetime allowances it is more important than ever that you take professional advice.

“You will not be able to bring forward unused annual allowances from past years where you have already taken flexible pension benefits that include income and wish to make further payments to a defined contribution scheme”

Voluntary contributions

The full amount of state pension for those retiring after 5 April 2016 is currently £155.65 a week, and it is generally an improvement over the old basic state pension.

You must have made 35 qualifying years of national insurance contributions, but there is a big catch. If you have been in 'contracted out' employment, this will result in a deduction from the full pension.

There is an attractive option for those retiring early, say, at 60. The idea is that you can pay voluntary class 3 contributions for the years between retirement and reaching state pension age, reducing the amount of deduction. The current cost for each year of voluntary contributions may seem high at £733, but this could add £231 a year to your pension – not a bad return if you live well into your eighties or nineties.

Unfortunately, the new state pension is not paid to those who retired before 6 April 2016. Such pensioners have been given the chance to top up their pension entitlement by up to £25 a week, but the take up has so far been way below government expectations. If you wish to purchase a top-up, you only have until 5 April 2017 to do so. The extra income is for life, is inflation proofed and, in most cases, your surviving spouse or civil partner will inherit between 50% and 100% of the income following your death. Advice is essential.

Tax calendar 2017

Every month

If the due date for payment falls on a weekend or bank holiday, payment must normally be made by the previous working day.

1 Annual corporation tax due for companies (other than large companies) with year ending nine months and a day previously, e.g. tax due 1 October 2016 for year ending 31 December 2015.

14 Quarterly instalment of corporation tax due for large companies (month depends on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

Month end

Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

February

1 Initial £100 penalty imposed where the 2015/16 tax return has not been filed or has been filed on paper after 31 October 2016.

2 Submit employer forms P46 (car) for quarter to 5 January 2017.

March

2 Last day to pay 2015/16 tax to avoid automatic 5% penalty.

31 Last few days to use any pension, CGT and IHT annual allowances and exemptions and to invest in an ISA in 2016/17.

April

1 Final staging date for businesses (unless commenced after 1 April 2012) to automatically enrol staff into a workplace pension scheme.

5 Deadline for making a payment of Class 3A voluntary NIC to top-up entitlement to the additional state pension.

Last day to submit final Full Payment Submission (FPS) or Employer Payment Submission (EPS) for 2016/17. Final day to register online to 'payroll' benefits and expenses in 2017/18.

6 First day of the 2017/18 tax year. Changes to many tax allowances, rates and thresholds, and ISA limits. Start of phased restriction to residential property mortgage interest relief. Introduction of new domicile rules. MPAA reduced to £4,000. Salary sacrifice schemes restricted.

Safehands Accounting Ltd

Safehands Accounting Ltd
St George's House
29 St George's Road
Cheltenham
Gloucestershire
GL50 3DU

Tel: 01242 517889
Mobile: 07900 900853
Email: andrewjamieson@safehandsaccounting.co.uk
Web: www.safehandsaccounting.co.uk

Andrew Jamieson