SQUIRE PATTON BOGGS

UK Autumn Budget 2018
Employment Tax

With the end of austerity apparently in sight, eyes were on where the Chancellor might target tax rises to fund additional spending. In respect of employment taxes, at least, there will be expected changes to IR35 in April 2020, but no nasty surprises.

Changes to IR35 For the Private Sector

As anticipated following the recent consultation, the Chancellor announced that the IR35 rules (which concern the use of personal service companies (PSCs)) will change as they apply to the private sector. The changes will mean that the rules will broadly apply in the same way as they have done for the public sector since 6 April 2017.

The end-user (rather than the PSC) will be required to determine whether IR35 applies and the responsibility for dealing with PAYE and National Insurance where it does will rest on the payer of the service company (i.e. the end-user or, if applicable, the agency, rather than the PSC).

The good news is that the government has not totally ignored concerns expressed in the consultation and the changes will not come into effect until 6 April 2020 (rather than from 6 April 2019, as initially proposed by the government). This will, at least, give more preparation time for businesses. In addition, the changes will only apply where the end-user is a large or medium sized business.

HMRC will be relying on most end-users being particularly cautious in their approach to the IR35 test and this may be the case given the current climate around tax avoidance (including the recent introduction of a corporate criminal offence of facilitating tax evasion in the Criminal Finances Act 2017). However, this will then result in many contractors receiving less take-home pay, leading to the potential for protracted contract negotiations, or contractors withdrawing their services in favour of less cautious end-users. Some end-users may, therefore, need to weigh up caution (e.g. applying a blanket approach to apply IR35 in all cases) against cost and the risk of non-competitiveness when attracting labour services.

There will also be a large amount of preparation necessary for many end-users when considering their approach. They will need to ensure they have the correct processes in place to establish how each contractor should be taxed. Employment businesses, of course, will be significantly affected and should consider how best to approach the changes. Early preparation will be essential, so the delayed April 2020 implementation date is helpful in this regard.

Interestingly, HMRC has stated that if a business determines IR35 applies under the new rules, in respect of a PSC that did not previously consider itself within IR35, that fact alone will not automatically trigger an HMRC enquiry into earlier years. Whether contractors should, or do, believe this is another matter.

HMRC will also need to prepare for the new regime. In particular, they will apparently continue to work with stakeholders to improve the online HMRC Check Employment Status for Tax (CEST) service before the reform comes into effect.

A further consultation on the detailed operation of the changes is due to be published in the next few months and the draft legislation implementing the changes is expected during summer 2019.

Personal Allowance

Contrary to the expectations of some who thought the Chancellor might abandon his pledge to increase the personal allowance and higher rate threshold, Mr Hammond confirmed that the government would see through on its commitment a year earlier than planned. This means that in 2019-20 the Personal Allowance will increase to £12,500 and the amount of income earned before paying 40% tax will increase to £50,000, cutting taxes for an estimated 32 million people.

The intention is then that these thresholds will remain unchanged in 2020-21 and thereafter increase in line with the CPI.

Short Term Business Visitors (STBVs)

The government will widen eligibility for the special PAYE arrangements for STBVs and extend its deadlines for reporting and paying tax for STBVs. This will take effect from April 2020 and should reduce the tax compliance burden for businesses that second overseas employees to the UK on a short-term basis.

Employment Allowance (EA)

From April 2020 the EA, which provides businesses and charities with up to £3,000 off their employer NICs bill, will only be available to employers with an employer NICs bill below £100,000 in their previous tax year.

Contact

Patrick Ford
Partner
T +44 161 830 5014
E patrick.ford@squirepb.com

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations, nor should they be considered a substitute for taking legal advice.

© Squire Patton Boggs.

All Rights Reserved 2018