NEWS UPDATE - 6 SEPTEMBER 2021

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Managing the end of furlough

After playing a crucial part in managing the impact of Covid-19, the Coronavirus Job Retention Scheme (CJRS) is set to end on 30 September. Although some business sectors, such as hospitality, are currently seeing severe staff shortages, other employers may struggle when furlough is phased out.

For September, the CJRS only covers 60% of an employee's wages, up to a cap of £1,875, with the employer having to top this up to at least 80%. All claims must be made by 14 October.

Redundancies

If you find you do need to restructure your staffing levels, any furloughed staff who are to be made redundant have the same legal rights as any other employees. So any decisions need to be mindful of unlawful discrimination or unfair dismissal.

A business may select staff for redundancy based purely on the fact that they were the ones to be furloughed. The level of risk to this approach will depend on the reasons why staff were chosen for furlough, the selection process used to do this, and whether these were fair. Large groups of 20 or more redundancies will require collective as well as individual consultation.

Alternatives

There are a few alternatives to redundancies to consider:

- A hiring freeze;
- Redeployment of staff to different areas of your business;
- Postponing salary increases; or
- A temporary reduction in hours across the workforce.

A temporary reduction in hours could be run on a similar basis to flexible furlough, just without the government support. Experienced employees are retained, and employees should be better off compared to being made redundant and having to claim universal credit. Employee consent is required to alter contractual terms.

Payments and support

If you do have to make employees redundant then they are entitled to statutory redundancy payment (after two years of employment) and untaken holiday pay. There may also be notice pay depending on circumstances.

The main form of support for most employees until they find alternative employment will be universal credit. This is a very different animal to furlough, and for many there will be a big drop in income.

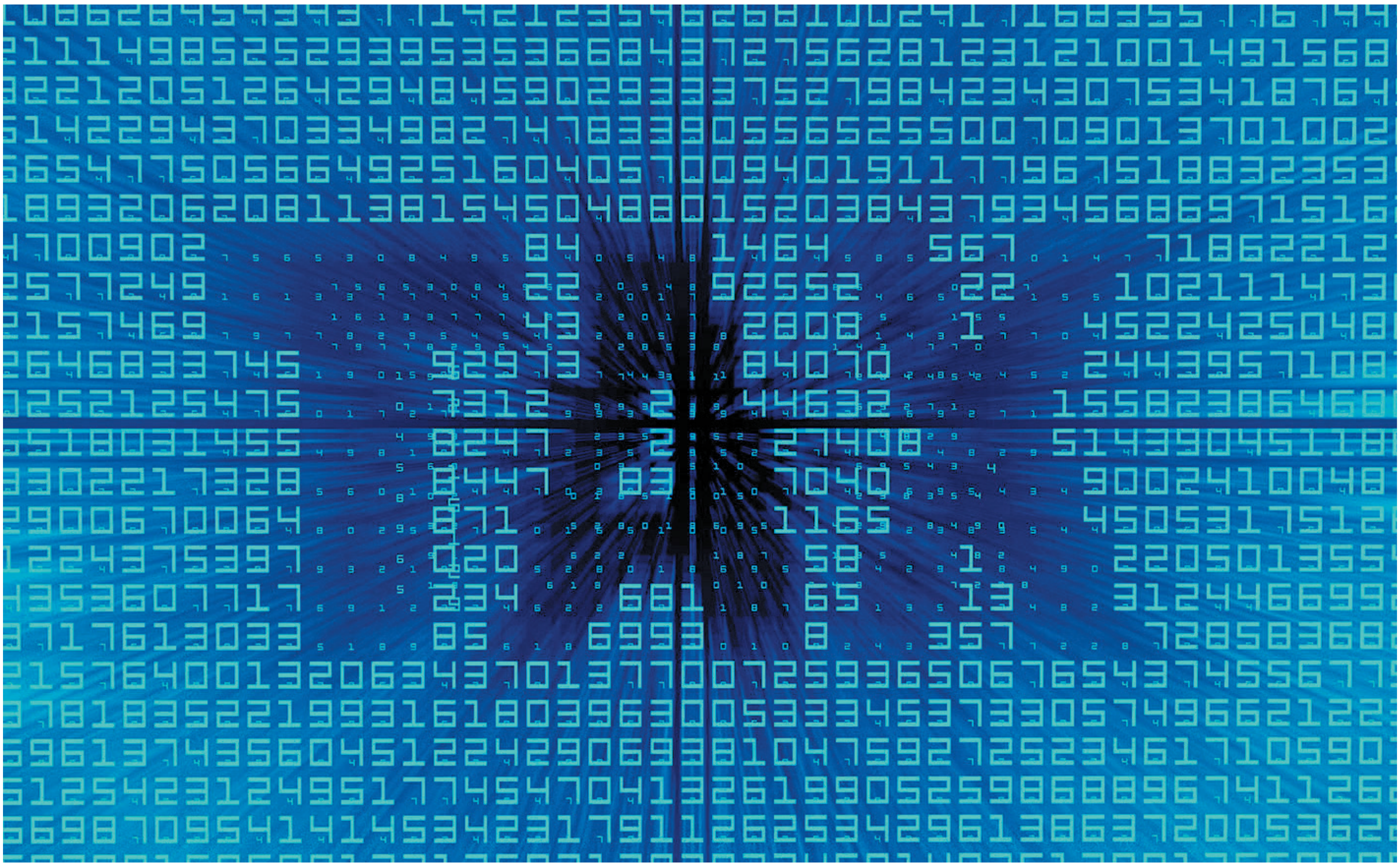
This will certainly be the case for higher earners because universal credit doesn't take account of previous income levels. Anyone with a high earning partner or significant savings may not be entitled to universal credit at all.

Guidance to making staff redundant can be found from the link below:

https://www.gov.uk/staff-redundant

Are you ready for MTD?

Making Tax Digital for income tax self-assessment may still be 18 months away, but if you are self-employed or a landlord, it is time to get ready for digital record keeping, ahead of the deadline.



MTD ITSA (as it's known) is set to begin on 6 April 2023, and it looks like businesses will need to enter the new regime from the first accounting period commencing on or after 1 April 2023; the proposed basis period rules deem an accounting period ending on 31 March as ending on 5 April.

More than four million taxpayers are set to start MTD ITSA from 6 April 2023, and the current timetable has met fierce opposition. The limited nature of the pilot scheme has not helped.

How MTD ITSA will work

MTD ITSA will initially apply to the self-employed and landlords with total annual turnover exceeding £10,000. There is no exclusion if you have, say, £6,000 of trading income and £6,000 of rental income.

- Income and expenditure will have to be recorded digitally. Spreadsheets are fine, but, if you do it yourself, MTD-compatible software will be needed to submit quarterly updates.
- A quarterly summary of income and expenses must be sent to HMRC, with a final declaration replacing the self assessment tax return.
- There will be a new penalty system and no soft landing. However, a late filing penalty will not apply until four quarterly submissions are late.

The biggest impact will be for those currently maintaining paper records. A move to spreadsheets should not be too onerous, however, and it will then be fairly straightforward to use these as a basis for the filing requirements.

If you are thinking of moving to a software package, be warned there are currently only seven providers of suitable software. HMRC has issued guidance (see link below) on MTD ITSA and of course we're here to help.

https://www.gov.uk/government/publications/making-tax-digital-for-business-stakeholder-communications-pack

New VAT penalties regime on the horizon

The existing penalty regime for VAT returns has the advantage of simplicity, but it's something of a blunt instrument. The new system coming in for return periods beginning on or after 1 April 2022 will be fairer, but some businesses will find themselves caught up in a complex web of escalating penalties.

The penalty scheme will be clearly divided, with one regime for late payments and another for late VAT return submissions.

Late payments

Unlike the current system of default surcharges, each late payment will be considered separately, with the following penalties charged unless there is reasonable excuse:

DAYS LATE	PENALTY
Up to 15	None
16 to 30	2% of outstanding VAT
More than 30	A further 2% penalty plus a daily penalty at a rate of 4% p.a. on the outstanding VAT

A business can avoid any further penalties accruing by entering into a time to pay arrangement with HMRC. For example, penalties are avoided if a business approaches HMRC when payments are already 12 days late.

For the first year, HMRC will take a light-touch approach to the initial 2% late payment penalty.

Regardless of whether any late payment penalties are charged, interest will be incurred from the due date until payment is made. A time to pay arrangement will not stop interest accruing.

Late submissions

Under a points-based system, a business will incur a penalty point for each late VAT return Businesses that file quarterly will be charged a £200 penalty when they reach a penalty threshold of four points.

- Subsequent late VAT returns will also incur a £200 penalty.
- Points expire after two years, but not once the penalty thresh old is reached.
- Once the penalty threshold is reached, a business filing quarterly will have to submit returns on time for twelve months for their points total to be reset to zero.

More detail is available on both late penalties and interest and late submissions from HMRC. from the link below:

https://www.gov.uk/government/publications/penalties-for-late-payment-and-interest-harmonisation/penalties-for-late-payment-and-interest-harmonisation

Capital gains tax receipts underline tempting target for Chancellor

New HMRC data shows that in 2019/20, £9.9 billion of capital gains tax (CGT) liabilities were created.

In July last year, the Chancellor unexpectedly asked the Office of Tax Simplification (OTS) to review "capital gains tax (CGT) and aspects of the taxation of chargeable gains in relation to individuals and smaller businesses". The top tax rate currently sits at 28% (limited to residential property and carried interest) with 20% liability for other assets.

At the time, there was speculation that Rishi Sunak was looking at CGT as a way of raising extra revenue without breaking the Conservatives' 2019 manifesto pledge not to increase rates for income tax, VAT and national insurance. With those receipts of nearly £10 billion, it's certainly a tempting target.

The OTS produced its first report on simplifying the design of the tax last November, prompting the rumour mill to forecast that CGT changes would appear in the spring Budget. However, CGT barely received a mention in March beyond the freezing of the annual exemption for five tax years at the 2020/21 level of £12,300. In May 2021, the OTS issued a second report examining "practical, technical and administrative issues" of making changes to CGT.

The focus for CGT announcements is now on the next Budget. In theory, it is due in autumn, but in practice, it could once again be delayed until spring. By then, the economic landscape should be clearer as pandemic support measures cease and we will have weathered another winter of Covid-19.

New data released by HMRC in August shows why the Chancellor may be tempted to follow the OTS advice to:

- Reduce the annual exemption to "a true de minimis level … in the range between £2,000 and £4,000"; and
- More closely align CGT rates with income tax rates. The OTS reckons this could theoretically raise an extra £14 billion, although it accepted "behavioural effects" would significantly reduce this figure in practice.

If you have unrealised capital gains, it could be wise to review them before the next Budget.

Source: HMRC

‘No jab, no job?’ and other workplace challenges

Now that more employees have been returning to the workplace, employers face several potentially challenging issues. Vaccination is one of the most problematic – businesses may wish to insist on employees being vaccinated, but there is concern that such policies could leave employers open to a legal claim of unfair dismissal or discrimination.

Reluctance to return

If workers feel they are not able to return to the workplace, this cannot be treated as a redundancy situation because the employee's job still exists. Where an employee has been successfully working from home, it will be quite difficult for the employer to then reject a request to make home or flexible working permanent. Developing a clear and sustainable hybrid working model, where suitable for the position, may be the sensible way forward.

Safeguarding

Over the last 18 months most businesses have already invested in safeguarding measures for employees – from additional sanitising precautions to barriers in the workplace between desks and workstations. As more people return, additional measures may be required, including testing.

There is no reason why an employer cannot implement a policy requiring regular Covid-19 testing as a condition for workplace attendance. This could be achieved by:

- the employer buying tests and setting up workplace testing;
- paying an approved provider; or
- asking employees to arrange their own testing.

Employers should draw up a clear plan on how positive test results are to be managed. Other issues to iron out may be around how testing will apply to everyone attending the workplace, such as visitors, or only employees.

Vaccination policy

Insisting on employees being vaccinated as a condition of workplace attendance is a more contentious issue, especially if it's just one or two employees who are opposed to immunisation. UK employment rights mean that employers are expected to tread carefully.

Although there is no legal reason why an employer cannot adopt a full vaccination policy, this is a risky approach to take. Along with potential legal claims, it could also mean the resignation of key personnel. A more practical approach is for employers to encourage employees to get vaccinated support this by offering time off during working hours to do so and where possible discuss concerns. Homeworking might be the easiest way to deal with the issue of an employee who does not wish to be vaccinated and handling their colleagues' expectations.

The employment service Acas has produced a guide to workplace testing for Covid-19.

https://www.acas.org.uk/working-safely-coronavirus/testing-staff-for-coronavirus

Should you wish to discuss this News Update in further detail please contact BGM at: communications@bgm.co.uk