

## Have my pension cake and eat it

Since April 2006 the rules on being able to access your money purchase (Defined Contributions) pension pot became easier with people being able to do so from the age of 55 onwards. This is known as flexibly accessing your pension.

More often than not people will still hold off doing so until they have reached retirement age. This could be due to a number of factors such as:

- A desire to build up their pension pot.
- The fear of being taxed at a higher rate on their pension income now because of their earned income.



There may be times, though, when a person needs to, or wants to, access their pension early prior to retirement perhaps, for example, to:

- Pay off a debt such as a mortgage.
- Invest in their business.
- Pay for a one-off special occasion such as their daughter's or son's wedding.
- Help their children/grandchildren onto the property ladder.

However, if you are still in work and you want to continue, going forward, to have contributions paid into your pension scheme,

either by yourself or in conjunction with your employer, you may find the normal annual available pension allowance could fall from £40,000 to only £4,000. Why? Because you may have 'flexibly accessed' your pension. The Government brought in rules to prevent individuals from accessing their pension in this way and then reinvesting back into the pension scheme to, effectively, get tax relief twice on the same amount.



For those people who want to continue to have more than £4,000 paid into their money purchase pension scheme, this all might act as a deterrent from accessing their pension early.

**However, all is not lost!!**

If you simply want to access the 25% tax free pension lump sum element of your pension pot and nothing else, then this will mean that you have not 'flexibly accessed' your pension and, therefore, you and/or your employer **would not be restricted** to paying in only £4,000 per annum into your pension.

### Top tip:

It is advisable to have a tax year end pension review to ensure that you are maximising your pension potential but without being hit for any unexpected tax bills. We are happy to carry out such a review for you.



### 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.

### WBD

Marlbridge House, Enterprise Way,  
Edenbridge, Kent TN8 6HF

### Andy Branson

Tel: 01732 865965

Email: [andy@wbdaccountants.com](mailto:andy@wbdaccountants.com)

design: voltracreative.uk

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## Help to Buy ISA deadline approaching

If you are looking at buying your first home or know somebody else who is considering doing so, such as your children or grandchildren, then this Government backed savings scheme might be an option. This has been available since December 2015 and is aimed at first time buyers aged 16 or over who are looking to save up a deposit for the purchase of their first home. The Government adds a bonus of 25% to your savings up to a maximum of £3,000. This is per person. It can be used as a purchase of a first time buyer's home worth up to £450,000 in London or £250,000 in the rest of the UK.

It is important to note though, that this ISA offering is coming to an end for new investors on 30th November 2019. So, if you want to make use of this particular Government backed incentive then you may want to consider opening a Help to Buy ISA account before the deadline, even if the opening capital invested is only £1. Assuming the account has been opened in time the Government bonus of up to £3,000 must be claimed, for the appropriate purpose, by 1st December 2030.

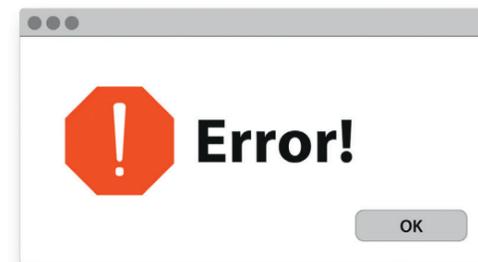
### Top tip:

There is also the Lifetime ISA to consider which provides a Government incentive of up to £4,000 per year for those who qualify and is aimed at first time buyers and those saving for retirement. Proper professional advice should be taken as penalties could be imposed if the investor takes monies out of this type of account early for non-qualifying reasons.

## National Minimum Wage Expensive Errors

The complexities surrounding the National Minimum Wage (NMW) regulations for employers can tie you up in knots. The repercussions if the employer gets it wrong can be significant as HMRC look to take action against 'errant' employers. This action can result in HMRC:

- **Demanding settlement of arrears** going back up to 6 years or 5 years in the case of Scotland.
- **Imposing penalties of up to 200%** of the employer's underpayment.
- **The Government can then name and shame those employers** who have failed to comply which can damage the reputation of the businesses concerned.



#### What are the common errors made?

- **A failure to keep proper records.** Simple administrative errors such as using the wrong date of birth, resulting in the incorrect level of NMW being paid.
- **A failure to take account of the increase in the NMW rates** which tends to happen on 1st April each year.
- **Treating time based employees (for example hourly paid) as salaried workers.** So for NMW purposes a salaried worker's annual pay is averaged over each pay period equally. So it doesn't matter how many hours that employee works each month, whilst it does for a time worker. For example, if a worker is paid monthly for the actual hours worked, sometimes the pay entitlement might be based upon a 4-week month other times a five-week month. The pay should therefore vary to reflect that.
- **If an employer operates a salary sacrifice scheme** and the salary the worker has given up takes them below the NMW that is also a breach of the regulations.
- **If the worker is required to pay for their own uniform.** You often find this in the hospitality and retail sector. For example, restaurants and hotels may require staff to wear black trousers, black shoes and a white shirt. If the employee incurs the cost then this is taken off his or her pay before working out whether or not the employer has been NMW compliant.
- **Tips, gratuities, and benefits in kind, employer loans, premium pay rates** (for example being paid extra for working the night shift) don't count as part of the NMW.
- **Time spent by a worker on an induction course or trial shifts (in some cases), training time, team debriefs, security checks** should also benefit from the NMW. Failure to do so could result in the employer being in breach of the NMW regulations.
- **If the employer provides accommodation to the worker free of charge,** then the maximum 'cost' the employer can count towards the NMW is what's known as the accommodation offset allowance which is £7.55 per day (£52.85 a week). If the employer charges for accommodation then any amount he charges over the offset allowance limit is treated as a reduction in pay prior to working out whether or not the worker has been paid at least the NMW.

These are just some of the multitude of areas where employers have fallen foul of the minimum wage test resulting in some painful underpayments, penalties and negative press. If you are an employer who may be concerned that you are not paying across the legal minimum, we will be happy to have a conversation with you.

#### Top tip:

It is important to remember that the National Living Wage, which the Government introduced in April 2016, for workers aged 25 years or more, is also caught by the NMW regulations. This sometimes gets mistaken for the Real Living Wage which is set at a higher hourly rate and is entered into voluntarily by some employers.

#### Overlap Profits

When a business starts, the new business owner must make a choice on the date the first accounts will be made up to, this is called the accounting date. The choice of accounting date can have an impact on the amount of profits to be taxed and on the tax year they are to be taxed in.

For the first period of trading, tax will be calculated on the profits from commencement to the following 5th April, apportioned if the account date is after 5th April.



For example: a new business commenced on 1st June 2018 and has an accounting date of 31st May 2019. The tax for the tax year ended 5 April 2019 will be calculated on the period from 1st June 2018 to 5th April 2019.

If the accounting date does not end on the 31st March to 5th April period, the taxable profits for the second tax year is a little more complicated. In the example above for the tax year ending 5 April

2020 the business would be taxed on the profits from 1st June 2018 to 31st May 2019. Due to the vagaries of the tax rules this has resulted in 10 months of those profits being taxed twice. These profits are called overlap profits.

The profits which have been taxed twice are noted on the tax return each year and credit for them is eventually given when the business changes its accounting date or when the business subsequently ceases. This is called overlap relief.

#### Top tip:

It's important to keep a record of the overlap profits so that credit can be given at the right time. If later on the business profits start to fall then consideration should be made to changing the accounting date to perhaps bring this overlap relief into play which then might help with the business cash flow. If the business is struggling at that time this action could alleviate the problem whilst it gets back on its feet again.

#### Are you ready for CSDRC?

If you are either a VAT registered subcontractor or contractor within the Construction Industry Scheme, you will find that a major change regarding how VAT is to be accounted for is coming into effect from 1st October 2019. This change is to be called the Construction Scheme Domestic Reverse Charge (CSDRC).



At present, if you are a VAT registered subcontractor providing construction services to a contractor, you may charge VAT (output tax) on the work you have carried out. Whenever you need to account to HMRC for the VAT you have received, you pay it over at that point. This maybe a few months after you have received the output tax from the contractor. If you are the VAT registered contractor, the VAT you have suffered, known as input tax, can be offset against any VAT you subsequently charge to your customers, at the time when you make a VAT return to HMRC. This maybe a few months after you have paid the VAT over to the subcontractor. A cash flow advantage to the subcontractor and the opposite for the contractor.

However, under the present regime there has been fraudulent activity. In some cases, the subcontractor has not paid over the VAT to HMRC and 'disappeared', whilst the contractor has legitimately claimed a deduction on their Return for the VAT the business has suffered. HMRC being, therefore, out of pocket.

From 1st October 2019 the rules will change, with a few exceptions, it will be the contractor who will be required to calculate the correct rate of VAT to be applied to the services provided by the subcontractor to them. The contractor will not pay this over to the subcontractor, they will show this on their own VAT Return as VAT to be paid over but will then, on the same Return, claim the same amount as a deduction for the VAT their business has suffered. HMRC are not out of pocket but the subcontractor is at a cash flow disadvantage whilst the reverse is now the case for the contractor. There are exceptions to this new rule and both the sub-contractor and the contractor need to see if any apply. If they do then the sub-contractor would continue to charge VAT, where applicable, and pay it over to HMRC.

#### Top tip:

If you are involved in the Construction Industry Scheme, whether as a VAT registered subcontractor or contractor, then is important to review your arrangements going forward to see if CSDRC applies. Failure to keep proper records, to operate this new rule correctly, or to apply the appropriate VAT rate could result in penalties and HMRC refusing to allow the VAT input tax deduction claim by the contractor. A review should be carried out and we would be happy to assist in this regard.