

# JTC NEWSLINE

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## **Making Tax Digital**

Good news—ish. Businesses will not be compelled to use the Making Tax Digital system until April 2019 and only then to meet their VAT obligations. But April 2019 is not a long way off. From that date businesses with a turnover above the VAT threshold will have to keep digital records for VAT purposes. Other taxes will go into Making Tax Digital from 2020. Do not turn away from this issue. You need to talk to your accountants about how your business will make the transition. ■

## **VAT on a contract which involved demolition and rebuilding a house**

Be very careful when a project to build a new house involves demolition **and** any part of the old building (however small when compared to the old) is retained. You are allowed to retain a one wall frontage, or a corner frontage, if there is evidence that planning requires its retention. In the case heard, two and a half old walls were retained, in a very large new house, and standard rate VAT had to apply to the full contract as a result. ■

## **VAT on care homes and hospitals**

There has long been confusion about what is a care home, and qualifies for zero rated VAT when built for a customer, and what is a hospital and must be standard rated. The names used by clients are often misleading. On 28 July HMRC issued an HMRC Brief 2/2017 VAT on care homes and hospitals. When you are involved in such a project you must read it. In a nutshell a hospital aims to treat illness and injury and discharge patients quickly. Care homes provide much longer term care and tend to focus on enabling a person to look after themselves as much as possible. The issues that have arisen have focused on residential care homes for the mentally ill, or substance dependant, where treatment to assist recovery is offered. HMRC will now accept that an institution where therapeutic treatment is offered but which will require long term stay may be a care home. At long last HMRC now admit these care homes may not be hospitals. Customers who have been charged VAT may apply for a repayment. If this applies to your clients seek help. ■

## **HMRC offers compensation for some online childcare applicants**

HMRC has issued guidance on compensation for tax-free childcare claimants who, because of technical problems with the online service, have been unable to complete applications, access childcare accounts or receive timely eligibility decisions.

[www.gov.uk/guidance/childcare-service-compensation](http://www.gov.uk/guidance/childcare-service-compensation) ■

## **VAT on the conversion of buildings from part commercial, part residential to residential**

This has long been a fraught area. It usually concerns pubs where there has been accommodation for the landlord above, or shops which have had living accommodation over and at the back of the shop. Where you work on such a building you will need expert help, but the rule of thumb established in HMRC v Languard New Homes is that only where the whole of the final residential accommodation has been created from commercial space will the zero rating apply. Where a new unit contains any space that was previously residential the sale must be treated as exempt. ■

## **Change to VAT on mobile phone charges**

From 1 November 2017, when a UK individual uses a UK mobile phone outside the EU, UK VAT will be charged. The place of supply of telecommunication services when made to consumers (B2C supplies) will be based on where the consumer 'belongs'. That will be the country in which the person's usual place of residence or permanent address is. This will mean mobile phone charges will be subject to UK VAT even when a UK person uses their UK mobile phone outside of the EU. ■

## **PAYE payrolling benefits in kind**

Employers wishing to payroll employee expenses and benefits in place of submitting forms P11D must register before the start of the relevant tax year. As we go into the autumn work programme think about whether you want to payroll benefits in kind from April 2018. It would be sensible to make the decision by Christmas and register in January.

[www.gov.uk/guidance/paying-your-employees-expenses-and-benefits-through-your-payroll](http://www.gov.uk/guidance/paying-your-employees-expenses-and-benefits-through-your-payroll) ■

## **FTT awards costs against HMRC**

In a recent case called Gekko & Company Ltd v HMRC the First Tier Tribunal (FTT) heavily criticised HMRC's handling of the (VAT) case and went so far as to award costs against HMRC. The errors found were small and yet HMRC pursued for penalties.

The FTT questioned the proper use of scarce resources. This case will be much quoted and may cause a rethink of penalty action in cases where the penalties imposed are small. ■

continued overleaf

**PAYE - RTI: dynamic coding and in-year adjustments**

HMRC has now started using RTI data from employers to recalculate employee tax codes in real-time. This will be used when a tax code review is triggered, such as when a new benefit in kind is notified.

Where a potential underpayment is identified HMRC will make an in-year adjustment to the code for the current tax year (aka dynamic coding) rather than waiting to code out the difference in the following tax year. It will also allow for in-year repayments to be made to employees and should reduce the number of annual P800 notifications. The existing limits with respect to the amounts that can be coded still apply. ■

**Apprenticeship Funding - how it will work**

There is a new updated guidance on the Apprenticeship Levy and how to register to use the apprenticeship service. If you are a Levy paying employer you ought to make sure you know the contents.

[www.gov.uk/government/publications/apprenticeship-levy-how-it-will-work](http://www.gov.uk/government/publications/apprenticeship-levy-how-it-will-work) ■

**Disguised remuneration tax avoidance schemes**

Some firms in construction have been badly hurt because they bought into disguised remuneration schemes (tax avoidance schemes!) in which long term loans were made to employees instead of salaries to avoid PAYE tax. These schemes have been defeated in the courts but a new crop of schemes has appeared in which people are paid money which they are said to hold 'in a fiduciary capacity'. HMRC say that they believe these tax avoidance schemes will not work and that they will be challenged. Do not be tempted to buy in to anything that disguises remuneration as anything else!! ■

**Inheritance Tax**

On 11 August 2017 HMRC issued two new guidance notes expressly to cover the basic rules.

- Inheritance Tax and how downsizing, selling or gifting a home affects the additional Inheritance Tax threshold.
- Inheritance Tax – transferring unused tax-free thresholds.

They are not bedtime reading – but interesting for those with an estate which will top the Inheritance Tax threshold, or elderly relatives in that fortunate position. ■

**And finally - amateur sports clubs**

Did you know that if a sports club registers as a community amateur sports club (CASC) it can bring very similar benefits to having charitable status such as exemption from tax on bank interest and any trading income under £50,000 and the gift aid scheme applies to donations. It needs careful thinking but can be very useful. ■

**If you have a query relating to any of the items featured in newslines please contact Liz Bridge.**

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