

Report

The April 2017 tax changes: A to Z guide

Speed read

April sees some significant tax changes come into effect: new rules on off-payroll working in the public sector, the new apprenticeship levy for employers with pay bills exceeding £3m as well as numerous changes to corporation tax, including very significant changes to losses carried-forward, limits on interest deductibility and of course the CT rate reduction to 19%. On the personal side, the most significant tax changes will affect rental properties. There is another increase in the personal allowance and (outside Scotland) the higher rate threshold. The new lifetime ISA is introduced and there are changes to taxation of pensions and the so-called 'non-doms'. On the indirect tax side, new VAT registration and deregistration thresholds apply and there is a new rate for certain businesses in the flat rate scheme.



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The main tax changes that come into effect in April are as follows:

Air passenger duty (APD)

APD rates for flights over 2,000 miles are increased by the

retail price index on 1 April.

Apprenticeship levy

From 6 April the new apprenticeship levy will be payable by all employers who have a pay bill exceeding £3m. The 'pay bill' includes all earnings on which the employer has to pay secondary class 1 contributions (or would do ignoring lower NICs thresholds). Employers operating as a group or who operate multiple payrolls will need to aggregate their pay bill to determine whether they exceed the threshold. Those who have to pay the levy will have to contribute 0.5% of their pay bill exceeding £3m into an apprenticeship account. The money in the account can then be used to pay for qualifying training expenses for apprentices. However, this will work differently in each of the devolved nations. The funds paid by employers subject to the levy who do not use it on training apprentices will lapse after 24 months.

Asset-based penalty for offshore inaccuracies and failures

FA 2016 Sch 22 introduced a new asset-based penalty for certain offshore inaccuracies and failures, based on the value of the asset underlying the tax evasion. SI 2017/277 brings Sch 22 into force, for inheritance tax, in relation to transfers of value made on or after 1 April 2017; and for income tax and capital gains tax in relation to tax years commencing on or after 6 April 2016. SI 2017/334 specifies the maximum reduction of the standard amount of the asset-based penalty for disclosure and co-operation under Sch 22 para 8 as: 50% of the standard amount in a case involving only unprompted disclosures; 20% of the standard amount in a case involving prompted disclosures. This comes into force on 1 April 2017.

Capital allowances: co-ownership authorised contractual schemes

New CAA 2001 s 262AA et seq introduce the option for the operator of a co-ownership authorised contractual scheme (CoACS) to elect for an administrative simplification when complying with the capital allowances legislation. The election can be made for periods that start on or after 1 April 2017.

CGT: rates and annual exemption

The rates remain at 10% and 20% for assets other than residential properties and carried interest which are taxed at 18% and 28%. The annual exemption is increased from £11,100 to £11,300.

Climate change levy (CCL)

The main rates of CCL are increased by RPI on 1 April.

Company car taxation

The percentage to apply to the list price to calculate the taxable company car benefit increases by 2% for all cars up to the absolute cap of 37%. The fixed amount to which the percentage is applied to calculate private fuel benefits increases from £22,200 in 2016/17 to £22,600 in 2017/18.

Corporation tax: disguised remuneration schemes: restriction of relief

Changes to CTA 2009 s 1290 (employee benefit contributions) deny deductions in computing an employer's

taxable profits for contributions to a disguised remuneration tax avoidance scheme unless any associated charge to PAYE and NICs is paid within a specified time. It has effect for contributions made, or to be made, on or after 1 April 2017.

Corporation tax: interest deduction restriction

From 1 April 2017 corporation tax interest deductions for many companies are restricted. All groups will be able to benefit from a £2m de minimis amount. Net interest expense in excess of this is restricted to 30% of taxable profits before interest, tax, depreciation and amortisation (tax-EBITDA), or the group ratio percentage (based on the ratio of accounting net interest expense to accounting EBITDA) of tax-EBITDA, if that is higher and a group elects to use it. Both ratios are limited by a modified debt cap to the group's aggregate net interest expense of the period, adjusted when applicable to the group ratio to remove related party interest and interest on equity notes and results-dependent securities.

Corporation tax: losses carried forward

From 1 April 2017 the treatment of corporation tax losses carried forward will change in two very significant ways. Firstly, only 50% of group taxable profits in excess of £5m annually can be reduced by losses carried forward. Secondly, post 1 April 2017 losses carried forward can be set against total profits, rather than streamed, and can also be group relieved. For accounting periods straddling 1 April 2017 the new legislation applies on a time-apportioned basis, subject to a just and reasonable adjustment. Reliefs for in-year losses, such as group relief, are not affected, but the new legislation includes many anti-avoidance provisions.

Corporation tax: profits from the exploitation of patents

From 1 April 2017, CTA 2009 Part 8A (profits from the exploitation of patents) is further amended following the 22 October 2015 consultation on amending the patent box, in particular in relation to cost-sharing arrangements.

Corporation tax rate

The rate of corporation tax reduces by 1% to 19% for the financial years 1 April 2017 to 31 March 2020 and 17% thereafter.

Corporation tax relief...

... for grassroots sport

The new CTA 2010 Part 6A extends the circumstances in which contributions to grassroots sports can be deducted from the taxable profits of corporation tax payers. Companies will be able to deduct all contributions to grassroots sports through recognised sport governing bodies, and deductions of up to £2,500 in total annually for direct contributions to grassroots sports. Sport governing bodies will be able to make deductions for all their contributions to grassroots sports.

...for museum and gallery exhibitions

A new corporation tax relief (new CTA 2009 Part 15E) for museum and gallery exhibitions will allow qualifying companies engaged in the production of exhibitions to claim an additional deduction of up to 80% of 'core expenditure' in computing their taxable profits and where that additional deduction results in a loss, to surrender those losses for a payable tax credit. Only charitable museums or galleries or their wholly owned subsidiaries, or a wholly owned

subsidiary of a local authority which maintains a museum or gallery are within the scope of this relief. A charity must be within the charge to corporation tax (this does not mean that a charity has to pay corporation tax to qualify).

... for sporting testimonial payments

As part of the changes made to employment income taxation of 'relevant sporting testimonial payments', corporation tax relief against profits is given for companies making such payments for the accounting period, or certain earlier accounting periods (CTA 2010 s 996A). The relief applies to a sporting testimonial payment made out of money raised by a sporting testimonial if the sporting testimonial was made public on or after 25 November 2015, and the payment is made out of money raised by one or more relevant events or activities which take place on or after 6 April 2017.

Corporation tax: substantial shareholding exemption

Significant improvements are made to the substantial shareholding exemption (TCGA 1992 Sch 7AC) for disposals on or after 1 April 2017. Three changes are made:

- to remove the requirement for the 'investing company' to satisfy the sole trading company/ member of a trading group requirements;
- to allow companies to make an exempt disposal of shares up to five years after their interest in the company invested in falls below 10% of its ordinary share capital; and
- to remove in most cases the requirement that the company invested in must be a qualifying company immediately after the disposal.

Corporation tax: substantial shareholding exemption: institutional investors

A new form (TCGA 1992 Sch 7AC para 3A) of the substantial shareholding exemption, with fewer qualifying conditions, applies to investing companies owned by institutional investors for disposals on or after 1 April 2017. If 80% or more of the ordinary share capital of the investing company is directly or indirectly held by qualifying institutional investors, the gains and losses arising from the disposal of a substantial shareholding by the investing company qualify for full exemption; there is a partial exemption, representing the interests of the qualifying institutional investors, where their interest is 25% or more, but less than 80%.

Corporation tax: vaccine research relief abolished

Vaccine research relief (CTA 2009 Part 13 Chapter 7) is abolished for expenditure incurred on or after 1 April 2017.

Double taxation treaty passport scheme

The double taxation treaty passport scheme to assist foreign lenders and UK borrowers will be revised and extended from 6 April 2017. The scheme simplifies, for overseas lenders, use of reduced withholding tax rates on interest that are available under the UK's double tax treaties. The scheme was previously restricted to corporate lenders and corporate UK borrowers; from 6 April 2017, this restriction will be removed and will now apply to all types of overseas lenders and UK borrowers.

Employer-provided legal advice

Employees called to give evidence in court no longer suffer tax on legal support provided by their employer from 6 April 2017.

Errors in taxpayers' documents

FA 2007 Sch 24 (penalties for incorrect tax returns) will be amended so that a person whose return was inaccurate as regards certain tax avoidance arrangements cannot rely on certain advice to demonstrate they have taken reasonable care to avoid an inaccuracy arising from their use of the arrangements. The advice affected is: advice received from or commissioned by a person connected to the arrangements; advice which does not take account of the person's individual circumstances; or advice given by a person not having the expertise necessary to give it. The changes apply to inaccuracies in documents relating to tax periods which begin on or after 6 April 2017 and end on or after the day the Act is passed.

Gaming duty

Gross gaming yield bandings for gaming duty increased by RPI for gaming duty accounting periods starting on or after 1 April.

Horserace betting levy

A new horserace betting levy comes into effect on 1 April or, if the regulations for the Levy are not made by 1 April, the day after they are made. The new Levy is extended to all gambling operators offering bets on horseracing in Great Britain, including operators based offshore.

Income tax rates

The personal allowance will be increased from £11,000 to £11,500, and the basic rate band from £32,000 to £33,500, giving a higher rate threshold of £45,000 for 2017/18. The commitment to raise the personal allowance to £12,500 and the higher rate threshold to £50,000 by the end of the parliament has been confirmed.

The basic rate band for taxpayers living in Scotland is £31,500 for non-savings and non-dividend income, giving a higher rate threshold for this income of £43,000. Other income is taxed based on UK bands.

Inheritance tax residential nil rate band

The residence nil rate band can be set against residential property if this is left on death to lineal descendants. It is phased in for deaths on or after 6 April 2017, at £100,000 in 2017/18 rising to £175,000 for deaths on or after 6 April 2020. It is tapered at £1 for £2 for estates over £2m. A spouse's unused band can be transferred to the surviving spouse. Relief is also available if property is sold on or after 8 July 2015 and assets representing it are left to lineal descendants.

ISAs

From 6 April 2017 the ISA subscription limit will be increased to £20,000, and that for junior ISAs and child trust funds will be updated to £4,128.

Lifetime ISAs (LISAs) will be available from 6 April 2017. Individuals will be able to save up to £4,000 each tax year into an account which will be topped up with a 25% bonus from the government. LISAs will be available for individuals between the ages of 18 and 40 and contributions can continue until they are 50. Amounts subscribed to a LISA will use up part of the £20,000 ISA limit.

The money saved, including the bonus, can be used to buy a first home worth up to £450,000 (around the country)

or can be withdrawn from the age of 60. The money can be withdrawn for other reasons before that time, but a 25% penalty will be applied in this case, effectively clawing back the government bonus together with a small additional charge.

Landfill communities fund

Landfill operators are able to claim up to 90% credit for their contributions to the landfill communities fund, up to a specified proportion of their landfill tax liability. The cap on contributions by site operators into the landfill communities fund is increased from 4.2% to 5.3% on 1 April.

Landfill tax

Landfill tax rates are increased by RPI on 1 April.

Non-UK domiciles

Significant changes will apply to the tax rules relating to non-UK domiciled individuals. The rules are detailed and complex, and may be subject to change before final enactment.

Deemed domicile will apply in two cases:

- **Long-term UK resident rule:** Individuals will be deemed to be UK domiciled for income tax, CGT and IHT purposes if they have been UK resident in at least 15 out of the preceding 20 UK tax years (i.e. it will apply from the start of year 16). Affected individuals will be taxable on worldwide income and gains as they arise and will be within the scope of IHT on their worldwide assets.
- **Formerly domiciled resident rule:** Individuals who were born in the UK and who had a UK domicile of origin at birth will automatically be deemed to be UK domiciled if UK resident, irrespective of whether they have acquired a domicile of choice in another jurisdiction. They will therefore be unable to claim the remittance basis and will be within the scope of IHT on their worldwide assets. A grace period is intended to apply for IHT purposes, such that affected individuals will only be brought within the scope of IHT on their worldwide assets if they were UK resident in one of the two preceding tax years.

Other matters

Those who become deemed domiciled under the long-term UK resident rule on 6 April 2017 and have paid the remittance basis charge for at least one tax year, will be able to rebase their overseas assets to their 5 April 2017 market value for capital gains tax. All non-UK domiciled individuals, except those who were born in the UK with a UK domicile of origin, will be able to separate mixed overseas funds into their constituent parts during a two year period from April 2017.

Non-UK resident trusts

Detailed changes also apply to non-UK resident trusts set up by individuals before they become deemed UK domiciled. In general terms foreign income and gains arising within a trust will be 'protected' if the trust is established before the settlor becomes deemed UK domiciled due to being a long-term UK resident. 'Protected' income and gains will only be taxable if a benefit is received from the trust. However, in order to benefit from this treatment no additions can be made to the trust on or after 6 April 2017 or the date the settlor becomes deemed domiciled, if later.

Foreign income and gains arising to settlor-interested trusts with formerly domiciled UK resident settlors will not be 'protected'. The settlor will therefore usually be chargeable

on all income and gains received by the trust, whether or not any benefits are received.

There are a number of detailed anti-avoidance provisions which may apply.

IHT on UK residential property

Inheritance tax will be extended to UK residential properties held by non-UK domiciles (and trusts) through overseas vehicles. From 6 April 2017, the value of a right or interest in a close company (broadly a company controlled by five or fewer participators) or partnership will not be excluded property for these purposes to the extent that the value of the right or interest is directly or indirectly (subject to a de minimis limit of 5%) attributable to a UK residential property interest. Certain loans provided to acquire or maintain UK residential property will also come within the scope of inheritance tax for the first time. Again, anti-avoidance rules may apply.

Off-payroll working in the public sector

From 6 April, where a contractor works for a public sector body through a personal service company (PSC), the public sector body must assess whether or not the engagement is deemed akin to employment. If they have engaged the PSC through a third party who will be paying the PSC, they must notify the third party of their assessment, before the first payment is made to the PSC following 6 April 2017. For new contracts entered into after 6 April, notification must be provided by the time services are first provided. PSCs also include partnerships and even individuals through which services might be provided.

Where there is deemed employment, the public sector body will be liable for PAYE and NIC on payments to the PSC if made directly; or if made through an agency, the agency will be so liable. However, if the above deadlines are not met, or if the public body makes its assessment without reasonable care, or the agency queries the assessment which is not replied to within 31 days, then the public body will continue to be liable.

Public sector bodies impacted include all entities subject to the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002. To consider if this applies to you, do not just think public sector: think FOI.

The government hopes that this move will reduce non-compliance by PSCs, at least for those working for the public sector.

Offshore tax errors: publishing details of deliberate defaulters

FA 2016 s 164 amended FA 2009 s 94 (publishing details of deliberate defaulters) giving HMRC powers to publish information about those liable to certain penalties relating to offshore matters and offshore transfers. SI 2017/261 brings this into effect from 1 April 2017.

Optional remuneration arrangements (OpRA)

The new arrangements come into force on 6 April and affect not only salary sacrifice and flexible benefit arrangements, but also arrangements where employers simply offer cash alternatives and trade-up or trade-down options for employee benefits. Where the new rules apply, benefits in kind (BIK) will still be taxable as benefits, but their taxable value will be calculated as the *higher* of:

- (1) the cash which the employee could have received; and
- (2) the BIK value that would normally be calculated as if OpRA did not apply.

In some scenarios, the rules specify a modified BIK calculation to be used in the comparison at (2); for example, in the case of living accommodation, and, for in the case of exempt benefits, the BIK value is to be taken as nil.

The change will have the biggest impact on benefits which are currently exempt from tax, such as workplace gyms, workplace parking, death in service not provided through a registered scheme, and high value items such as training for an MBA. The new rules will not apply to contributions to registered pension schemes (including death in service provided through a registered scheme), childcare vouchers, 'ultra-low' emission cars and bike-for-work; all these can continue to be provided under OpRA with no new tax consequences.

Employees who have properly entered into arrangements before 5 April 2017 to receive a benefit under an optional remuneration arrangement will continue to be taxed under the old rules until 6 April 2018 (or April 2021 in the case of company cars and vans, private fuel, living accommodation and school fees) or until the terms of the arrangement are renewed or varied, whichever is earlier.

Penalties relating to offshore matters and offshore transfers

FA 2016 s 163 and Sch 21 introduced increases in certain penalties in connection with offshore matters and offshore transfers. SI 2017/259 brings these into effect for inheritance tax for transfers of value on or after 1 April 2017 and for income tax and capital gains tax from 2016/17.

Pensions

Money purchase annual allowance

From 6 April 2017 the money purchase annual allowance reduces from £10,000 to £4,000. The money purchase annual allowance applies to individuals who have previously accessed pension income flexibly (e.g. from a flexi-access drawdown fund). Where it applies, any contributions to money purchase pension schemes in excess of the allowance attract an income tax charge at the individual's marginal rate.

Foreign pensions

A number of changes are made to the taxation of lump sums from foreign pension schemes from 6 April 2017. Broadly, most lump sums from foreign schemes will be taxed on UK residents if equivalent lump sums from UK schemes would normally be taxable. Additionally, certain pension tax charges that continue to apply for five years after ceasing UK residence will apply for ten years instead. There will be some exceptions for rights that were built up prior to 6 April 2017.

From 6 April 2017, the rule whereby only 90% of foreign pension income is taxable will be withdrawn. This rule applied to UK resident individuals who were taxed on the arising basis.

Qualifying recognised overseas pension schemes (QROPS)

From 6 April 2017, the requirement for a QROPS to ensure that at least 70% of funds are used to provide an income for life will cease to apply.

With effect from 9 March 2017, significant changes were made to restrict the circumstances in which individuals can transfer to a QROPS tax-free. Tax-free transfers will continue to be possible where both the individual and the scheme are either in the same country or in the EEA.

Transfers that do not qualify for exemption will suffer a 25% tax charge. The charge will also apply where the conditions are met on transfer but cease to be met during the next five tax years.

Pension advice

The tax exemption for employer-provided pension advice increases from £150 to £500 from 6 April 2017, where the advice is provided to all employees in similar circumstance, e.g. all those nearing retirement age.

Property matters

Restriction of mortgage interest on rental properties

Phasing in up to 2020/21, the deduction for mortgage interest in respect of let properties will be restricted to a basic rate tax reducer. In 2017/18, 75% of the interest is fully deductible and a basic rate reduction is given for the remaining 25%. These percentages reduce and increase respectively over the period so that solely a basic rate reducer is available by 2020/21.

Cash basis

The cash basis will be extended to property businesses of individuals and partnerships of individuals from 2017/18. For rental receipts up to £150,000, the cash basis will apply by default, but the taxpayer can elect to use the accruals basis under normal accounting principles (GAAP) if preferred. For rental receipts over £150,000 the accruals basis must be used. Married couples and civil partners who receive income in respect of a property held in their joint names must use the same basis, although other joint owners can use separate bases if required.

Property businesses run by the same individual in the UK and overseas are treated separately for tax purposes and a separate choice can be made for each of them.

Property allowance

An allowance of £1,000 for property income will apply from 6 April 2017. Where the individual's gross rents are less than £1,000, rents and expenses are disregarded for income tax purposes. Where rents breach this threshold, the allowance may be claimed in lieu of property expenses. This allowance is not available in respect of receipts to which rent-a-room relief would normally apply.

Requirement to correct certain offshore non-compliance

A new 'requirement to correct' is introduced for taxpayers who have offshore non-compliance to correct as at 5 April 2017. Failure to carry out the necessary correction on or by 30 September 2018 will render taxpayers liable to a new penalty as a result of their 'failure to correct'. Taxes affected are income tax, capital gains tax and inheritance tax. The matters requiring correction include those which result from: failure to notify chargeability to tax; failure to make a return; and delivering an inaccurate document, such as a return, to HMRC.

Savings income: deduction at source of income tax

Following the change in respect of bank and building societies from 6 April 2016, from 6 April 2017 it will no longer be necessary to deduct tax at source from interest distributions of open-ended investment companies, authorised unit trusts and investment trust companies, and from interest on peer-to-peer loans. This will bring these

types of savings income in line with the treatment of bank and building society interest.

Serial tax avoidance

Certain measures concerning taxpayers who have entered into certain tax planning arrangements which are defeated by HMRC or where the taxpayer concedes that the planning is ineffective come into effect from 6 April 2017 (FA 2016 s 159 Sch 18). The new legislation can result in higher penalties for taxpayers who continue to use such arrangements after a defeat which are themselves defeated; can result in certain details about the taxpayer being published by HMRC; and may also result in restriction of other reliefs claimed, even if these are unconnected with a defeated scheme. The implications for arrangements entered into before 15 September 2016 differ from those entered into on or after that date.

Trading income

Cash basis

From 6 April 2017 trading income can be reported on the cash basis if turnover does not exceed £150,000, an increase from the current limit of the VAT threshold of £83,000. Businesses will be required to leave the cash basis if their turnover exceeds £300,000. Universal credit claimants will be subject to a single entry and exit threshold of £300,000, rather than double the VAT threshold.

There will also be a change to the treatment of capital expenditure within the cash basis. Rather than an overall disallowance for capital expenditure, there will be a specific disallowance for certain assets purchased which are not used up in the business over a limited period. This will take effect from 6 April 2017. Expenditure on cars will continue to be disallowed, although capital allowances will be available on such expenditure.

Trading allowance

As for property income, an allowance of £1,000 for trading income will apply from 6 April 2017. Where the individual's gross turnover is less than £1,000, receipts and expenses are disregarded for income tax purposes. Where turnover breaches this threshold, the allowance may be claimed in lieu of trading expenses.

VAT flat rate scheme

From 1 April, there is a new 16.5% rate for businesses in the VAT flat rate scheme that are businesses with limited costs.

VAT registration and deregistration thresholds

From 1 April, the VAT registration threshold and the threshold for intra-community acquisitions is increased from £83,000 to £85,000. The VAT deregistration threshold is increased from £81,000 to £83,000.

VAT zero rating

From 1 April, new rules come into effect regarding the zero rating of motor vehicles adapted for disabled wheelchair users.

Vehicle excise duty (VED)

From 1 April 2017, VED rates for cars, vans and motorcycles registered before April 2017 are increased by RPI. (New rates apply for vehicles registered on or after 1 April 2017.) ■