

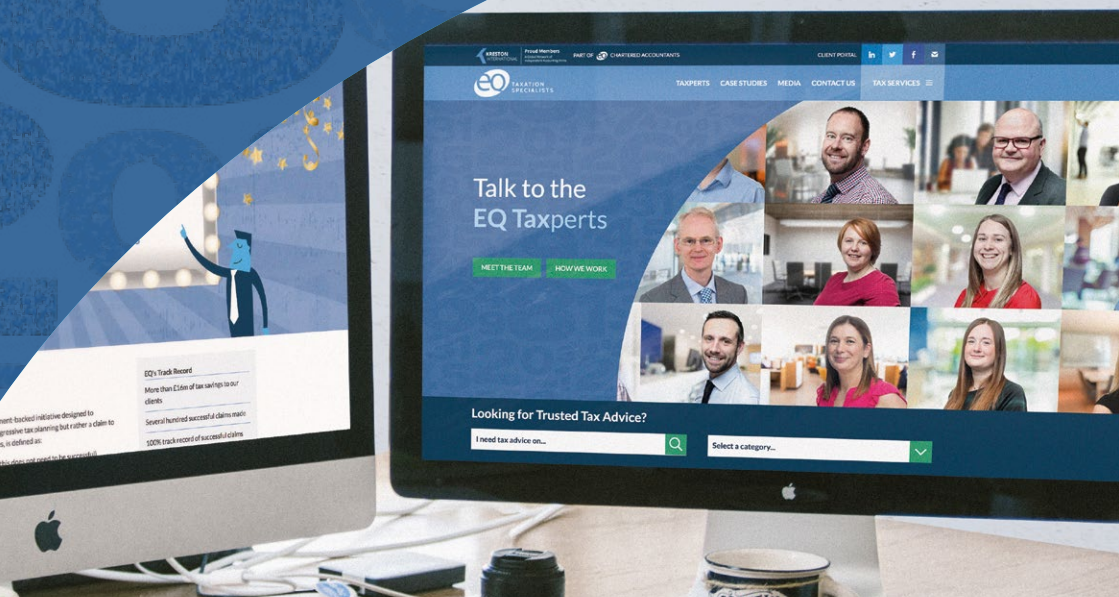
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# Taxation News

Regular News from the **EQ Taxperts**

WINTER 2023



## R&D changes

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## Salaried partners

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# Autumn statement summary

Chancellor, Jeremy Hunt, delivered his Autumn Statement on 22 November presenting an upbeat perspective on the economy and its prospects, an assertion subsequently rubbished by Shadow Chancellor, Rachel Reeves.

Regardless of your political perspective, there was something in the Budget affecting most people. Below is a summary of the changes:

## For the employed

- National living wages rises to £11.44/hour from April 2024
- Class 1 employees NIC reduce by 2% to 10% with effect from 6 January 2024

## For the self employed

- Class 2 NIC abolished for those earning over £12,570 from 6 April 2024
- From the same date, Class 4 NIC reduced by 1% to 8%

## For business

- Full expensing of capital items made permanent
- Simplification of R&D by merging the RDEC and SME schemes
- Frozen alcohol duty

## For individuals

- No change to Capital Gains Tax nor Inheritance Tax rules
- State pension to increase by 8.5% from 6 April 2024, maintaining the triple lock pledge

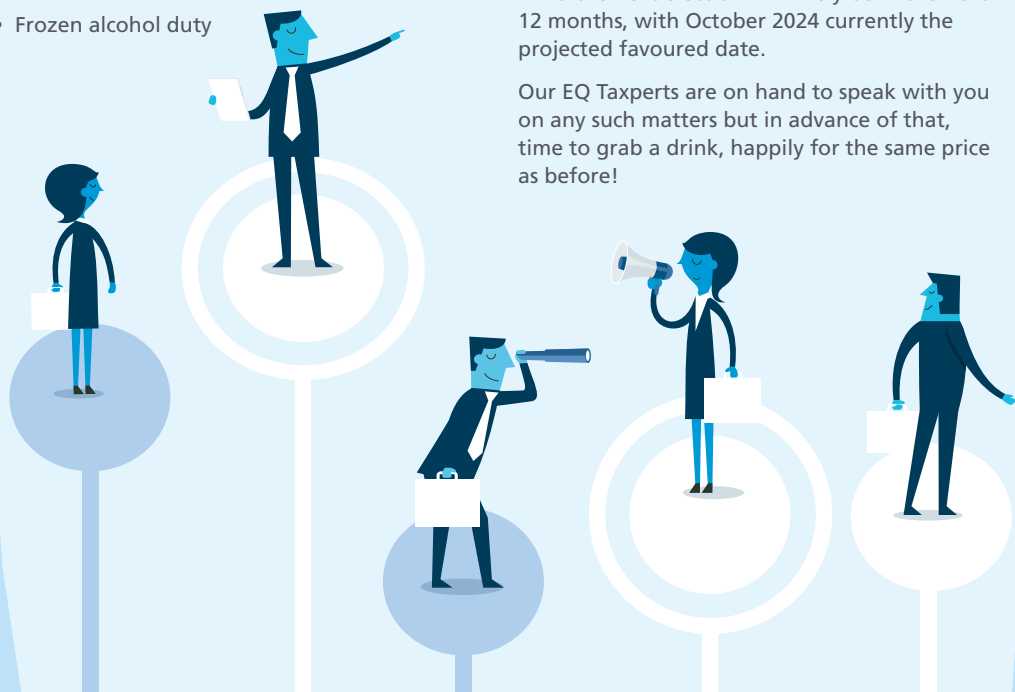
## Administration

- More investment in HMRC to target debt due to HMRC

The above is by no means all of the measures announced.

With certainty supplied for a short period of time, taxpayers must still be aware, currently, of the likelihood of a change in government, signalling a potential shift in tax policy. Therefore, if you are planning any major changes such as investment decisions, family succession, remuneration planning etc, it would be wise to consider timing bearing in mind the next election will likely be in the next 12 months, with October 2024 currently the projected favoured date.

Our EQ Taxperts are on hand to speak with you on any such matters but in advance of that, time to grab a drink, happily for the same price as before!



## R&D changes

One of Jeremy Hunt's 110 measures addressed to the House of Commons in this year's Autumn Statement was that he would create a "new simplified R&D tax relief". His sights are set on merging the existing R&D Expenditure Credit (RDEC) and SME schemes.

The merger is to take effect for expenditure incurred in accounting periods beginning on or after 1 April 2024. Expenditure from this point onwards is to be claimed in the merged scheme.

The rate at which loss-making companies are taxed within the merged scheme will be reduced from 25% to 19%.

For accounting periods beginning on or after 1 April 2024, the only other R&D scheme available will be the SME intensive scheme. The threshold applying to this scheme is to be reduced from 40% to 30% of total expenditure.

A year's grace period is to be introduced allowing those that dip below the threshold to claim the intensive relief in year two following a valid first year claim.

Any simplification to the scheme will be welcome news to tax advisors and business owners alike but we await sight of final legislation.



## Silence is golden

Following the Autumn Statement on 22 November, sometimes it's not about what was said but what wasn't. In the weeks prior to the Statement, there had been rumours of an extension to the nil rate band for Inheritance Tax (IHT), but as it transpired, there was nothing mentioned. That ensures that any family succession or estate planning can proceed without the inconvenience of rules changes, with various inheritance tax reliefs also left unaltered.



There had been some significant concern that the Capital Gains Tax (CGT) regime was to be changed and indeed this remains a concern were there to be a change in government (with IHT too also potentially under scrutiny). However, the current rules remain in place, for now, meaning that the rates and reliefs applied to disposals, gifts and transfers are the same. With capital gains rates being attractive currently, longer term planning in family business can be reviewed with more certainty, for the moment anyway.

In capital taxes planning, silence is golden so make sure you consider your planning while rates and reliefs are attractive, as one cannot guarantee this will always be the case.

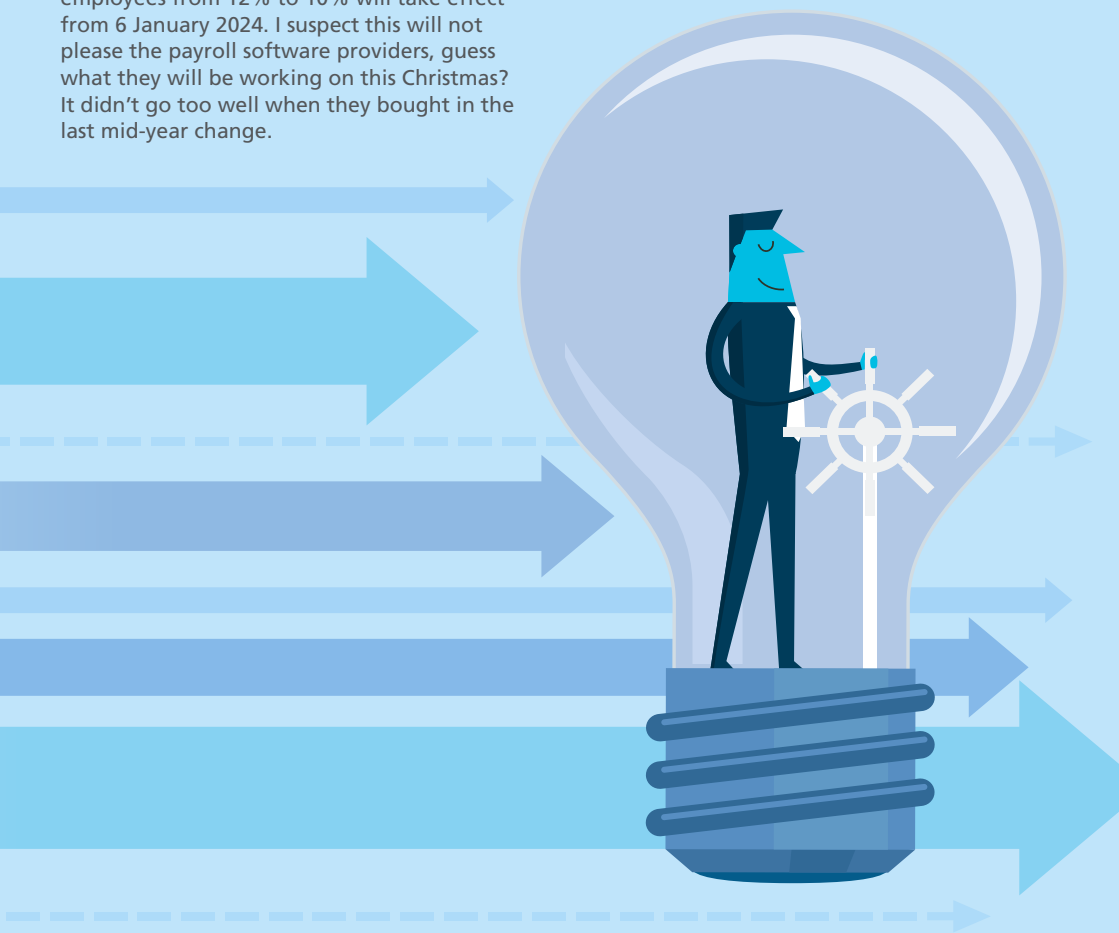
# The big National Insurance giveaway

**Interesting that Jeremy Hunt has chosen to deliver his tax cuts for individuals through National Insurance (NIC) and not Income Tax. I wonder if this was to benefit the devolved nations who may not have passed on an Income Tax reduction but have no control over National Insurance!**

I will not be sorry to see the back of Class 2 NIC for the self-employed. A tax that was often missed or dealt with incorrectly by newly self employed and by HMRC. However, it is not gone completely. If you have profits less than £6,725 you will still need to make a voluntary contribution, currently £3.45 per week, if you want credit for your state pension.

The changes for Class 2 NIC and the reduction in Class 4 NIC from 9% to 8% take effect from 6 April 2024. The drop in Class 1 NIC for employees from 12% to 10% will take effect from 6 January 2024. I suspect this will not please the payroll software providers, guess what they will be working on this Christmas? It didn't go too well when they bought in the last mid-year change.

There is still a discrepancy in National Insurance between the employed and self-employed and no mention at all in relation to employer's contributions. A reduction in employer's contributions could encourage businesses to employ more staff. In his speech, Jeremy Hunt referred to National Insurance as a tax on work and it is a shame he hasn't considered abolishing it completely and raising the cash through income taxes instead. This would be another step towards simplification.



# Permanent full expensing

Business investment is seen as a key driver of productivity growth. In an effort to encourage business investment and boost investment and growth, Chancellor Jeremy Hunt announced at the Autumn Statement that full expensing will now become a permanent tax break for businesses. This will be particularly welcome news for businesses considering making significant capital investments.

Full expensing was introduced earlier this year, initially on a temporary basis for three years. Full expensing is a first-year allowance which allows companies within the charge to Corporation tax to claim a 100% deduction against profits, allowing businesses to write off the full cost of qualifying expenditure on plant and machinery.

Full expensing is only available on expenditure on main pool plant and machinery. Examples of qualifying items for full expensing:

- Office equipment
- Machines – computers, printers, lathes, and planers

- Tools
- Warehouse equipment – forklift trucks, compactors, and bulldozers
- Vans, lorries and tractors but not cars
- Movable glamping pods and caravans
- Some fixtures such as kitchen and bathroom fittings and fire alarm systems in non-residential property

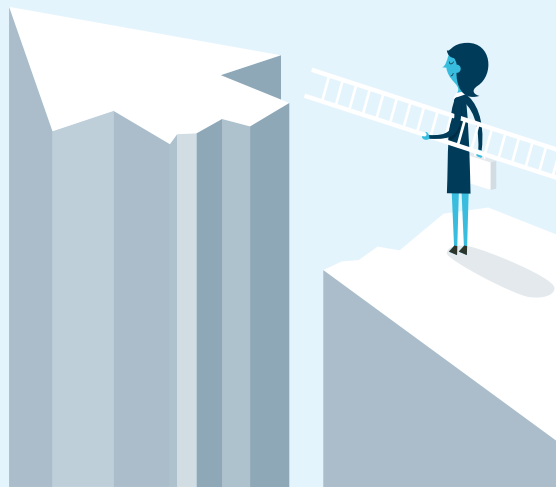
The government have also announced that they are planning a review of capital allowances, so we may see further changes or simplification in the future.

# Making Tax Digital – Revisited

You may have wondered what has happened to Making Tax Digital for Income Tax (MTD for ITSA). It feels like something we have been talking about for a long time but has never come to fruition however, there is still a plan to introduce MTD for ITSA from April 2026 for self employed and landlords with annual income over £50,000. In the background there have been many discussions with stakeholders as to how to deal with the practicalities of this. The Autumn Statement includes the outcome of these discussions and there have been a few tweaks to the earlier proposals. These include:

- improving the design of the quarterly updates, making them cumulative;
- removing the end of period statement (EOPS) leaving only the final declaration to be made;
- addressing the issues for landlords with jointly owned properties;
- exempting specific groups.

They will also keep the reduction of the income threshold to £30,000 from April 2027 under review. Most advisers support HMRC in their vision for a digital and modern system and it is good to see them engaging with professionals and software developers in achieving this vision.



# Taxation on separation and divorce (changes from 6 April 2023)

**Tax is not always at the forefront of a couples mind when dealing with the unpleasant business of a separation or divorce. However, if it is ignored there could be unintended consequences and costs on the division of assets.**

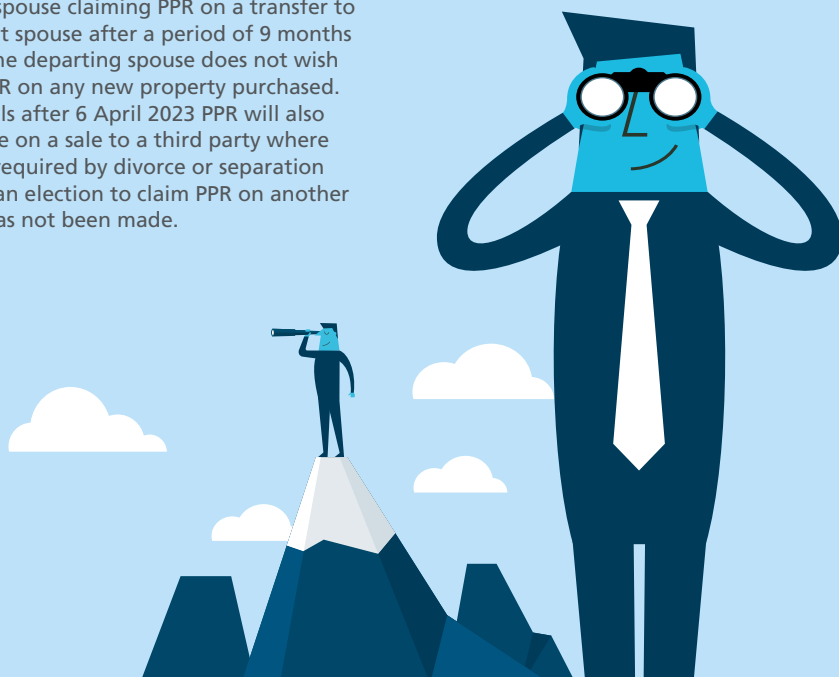
Whilst married and living together, assets can be transferred between spouses with no Capital Gains Tax (CGT) payable. If a couple cease living together, and there is a transfer after 6 April 2023, there is no taxable gain provided that the transfer takes place within 3 years of the date they ceased to live together or the date of their divorce or separation order if earlier. If the couple is in the process of a divorce, then there will be no gain on a transfer of assets as part of the formal divorce order or judicial separation agreement, even if more than 3 years after ceasing to live together.

When looking at the matrimonial home it is important to firstly establish who owns the property. Only then can you decide who is disposing of what and to whom. If the property is sold within 9 months of one or both spouses vacating the property, then full principal private residence relief (PPR) will be available to both and no tax will be payable on the sale. If one spouse remains in the property and the other leaves then there is a possibility of the departing spouse claiming PPR on a transfer to the resident spouse after a period of 9 months provided the departing spouse does not wish to claim PPR on any new property purchased. For disposals after 6 April 2023 PPR will also be available on a sale to a third party where the sale is required by divorce or separation order and an election to claim PPR on another property has not been made.

The effect of these 'no gain/no loss' transfers on the recipient means they acquire the original base cost of the asset for the purpose of any future sale. Some assets may have a larger inherent gain than others and this may need to be taken into consideration in any divorce settlement.

For Inheritance Tax (IHT) transfers between spouses in lifetime and on death are exempt. Unlike CGT it does not matter if the couple are living together or not, the exemption will apply until the date of the divorce order. Following divorce it is not possible to benefit from the unused nil rate band of an ex-spouse.

Finally, despite the introduction of independent taxation in 1990 there are still some income tax implications of marriage, the ability to transfer surplus personal allowances which was re-introduced in a limited form in 2015, and the impact on child benefit income, where one spouse earns over £50,000 per annum, which was introduced in 2013 should not be overlooked.



# Are you struggling to pay your tax bill?

**January is not far away now, the time when many individuals and self employed taxpayers have to pay their Income Tax bills. For some it may be a time of year when cash flow is low. Did you know you can ask HMRC for help with a 'Time to Pay' arrangement?**

A Time to Pay arrangement will allow you to spread the cost of your tax bill. The amount you pay will depend on your personal financial circumstances, determining how much you can afford and how much time you need to pay it. If you meet certain criteria, you can make the arrangement online, otherwise you need to call HMRC.

By making an arrangement in advance of any liability becoming due you will avoid any penalties for late payment and avoid any debt

collection proceedings. Interest will continue to be charged on the outstanding balance at the current rate of 7.5%. It is important that you make the payments as arranged and HMRC will expect your tax returns to be filed up to date. Any future tax liabilities must be paid on time.

Time to Pay arrangements can also apply to other taxes including VAT, PAYE and Corporation Tax. If you need any advice regarding paying your tax, please get in touch.

## Tax simplification

**We may no longer have an Office for Tax Simplification but simplification is still on the agenda to some degree. One area where this has been addressed is by changes to the rules surrounding when a business can use the cash basis for accounting instead of the accruals basis.**

Most accounts prepared by a professional adviser will be prepared using generally accepted accounting practice, i.e. the accruals basis. Unrepresented taxpayers may not understand this concept and produce statements based on cash in and cash out. Previously this was only acceptable for tax purposes in certain circumstances.

The changes announced in the Autumn Statement will remove any restrictions to using the cash basis and it will be the default method of accounting unless the option to use accruals is selected. There will be no restrictions for interest deductions and the availability of loss reliefs, which was one of the main reasons the cash basis was not used, will now mirror those available for the accruals basis.



# Salaried partners

A recent tax case has brought to mind the rules that came in back in 2014 deeming certain members of an LLP as employees. To recap, the member must meet three conditions:

- **Condition A** – At least 80% of their reward for services is ‘disguised salary’, fixed or variable without regard to the overall profits or losses of the partnership.
- **Condition B** – The mutual rights and duties of the members and the partnership do not give them significant influence over the affairs of the partnership;
- **Condition C** – They have no significant money investment in the LLP, i.e. their capital contribution is less than 25% of their disguised salary.

The case (Bluecrest Capital Management (UK) LLP v HMRC) involved a hedge fund manager. The First Tier Tribunal found that Conditions A and C were met in all individuals and that condition B was met for all individuals except portfolio managers, leaving all non-portfolio managers and office support staff subject to PAYE and NIC. The case was appealed by HMRC, asserting that the portfolio managers did not have significant influence over the affairs of

the partnership and cross appealed by Bluecrest on the basis that Condition A was not met. The Upper Tribunal agreed with the previous decision and the appeal denied.

The main discussion in this case was the definition of ‘significant influence’ and the Judge concluded that management of a \$100m capital portfolio was sufficient to demonstrate significant influence on the financial affairs of the partnership and the nature of their activities was similar to those of a partner in traditional partnership. Bluecrest failed to demonstrate that discretionary awards were linked to the profits or losses of the partnership.

This is an important case as this legislation has yet to be tested in the higher courts. It is also a timely reminder to LLP’s to ensure members rewards and capital contributions are structured correctly. If you would like to discuss this further, please get in touch.



## Time to trust

**The mention of Trusts sends shivers down many people's spines, including professional advisers! However, they are not something to be feared and will continue to have a place in society to protect assets and provide for succession to assets.**

The Trust Register maintained by HMRC has made the administration of trusts more cumbersome and many are still unaware of the requirement to register a trust. If you need guidance on whether a trust needs to be registered, or how to register, please get in touch.

The Spring Budget announced a number of changes to the taxation of trusts and estates which will come into effect on 6 April 2024. Currently a trust or estate with income below £100 is exempt from Income Tax and the requirement to complete a tax return, this will increase to £500. If you have set up more than one trust subject to the tax rate applicable to trusts, then the £500 will be divided by the number of trusts. The beneficiary, an estate in receipt of the income, will be exempt from paying tax on it.

Trusts where the income is paid at the discretion of the trustees currently pay tax at 39.35% on dividend income and 45% on other income, subject to a basic rate band of £1,000. Tax on the first £1,000 of income is taxed at 8.75% or 20%. This £1,000 basic rate band will be removed from 6 April 2024.

There will be winners and losers from these changes. If you would like to discuss the impact on your trust, then please get in touch.



## Looking for Trusted Tax Advice? Talk to the EQ Taxperts

We are always happy to offer free, no obligation, initial consultations, and often act on a tax consultancy basis only.

For more information on any of the services outlined in this bulletin, or to discuss a particular issue with one of our advisors please get in touch.

Talk to the EQ Taxperts today.



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Contact us at [taxation@eqaccountants.co.uk](mailto:taxation@eqaccountants.co.uk) or **01382 312100** for specific advice on how the issues raised could affect you.