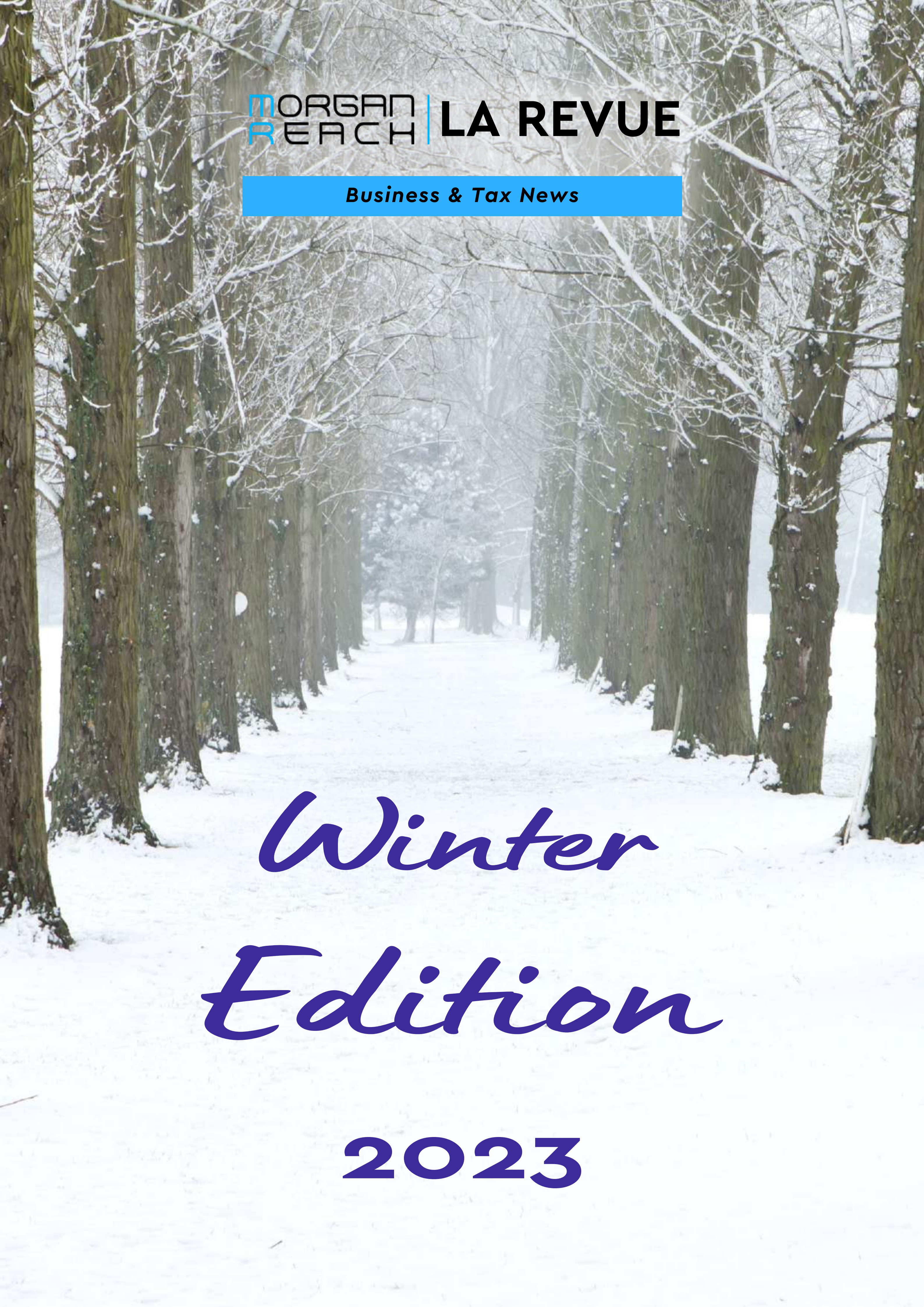


MORGAN REACH | LA REVUE

Business & Tax News

Winter Edition

2023

Time is Of The Essence

With the tax year end fast approaching you may want to consider carrying out some actions prior to 6th April 2024. Here are just some suggestions:

Capital Gains Tax (CGT)

The capital gains annual exemption (AE) for this year is £6,000. The potential tax savings by utilising that exemption is worth up to £1,680 per person.
The exemption cannot be carried forward to the following tax year.
Next tax year the AE drops to £3,000.

Do you have any assets that are pregnant with gain which are worth selling?

If you are in a stable relationship and you own shares which you want to keep, consider selling them and your partner buying them back in a completely separate independent transaction on the same day. If the gain on those shares was, for example £6,000, you would not pay any CGT on the gain due to the AE (assuming the AE has not been utilized elsewhere) but your partner, on a subsequent sale, would mitigate their CGT liability by up to £1,800 (based upon present CGT rates and an AE of £3,000).

Inheritance Tax (IHT)

Normally you have to wait up to 7 years for a gift you have made to drop outside your estate for IHT purposes.

However there is an annual IHT gift exemption of £3,000. If you make that gift it is immediately outside your estate from an IHT perspective.

You can carry this forward to the following tax year but not beyond that.

Did you use the IHT exemption last year? If not you could make a gift in this current year of £6,000 (2 years IHT annual exemptions).

This would immediately save your estate £2,400 in IHT.

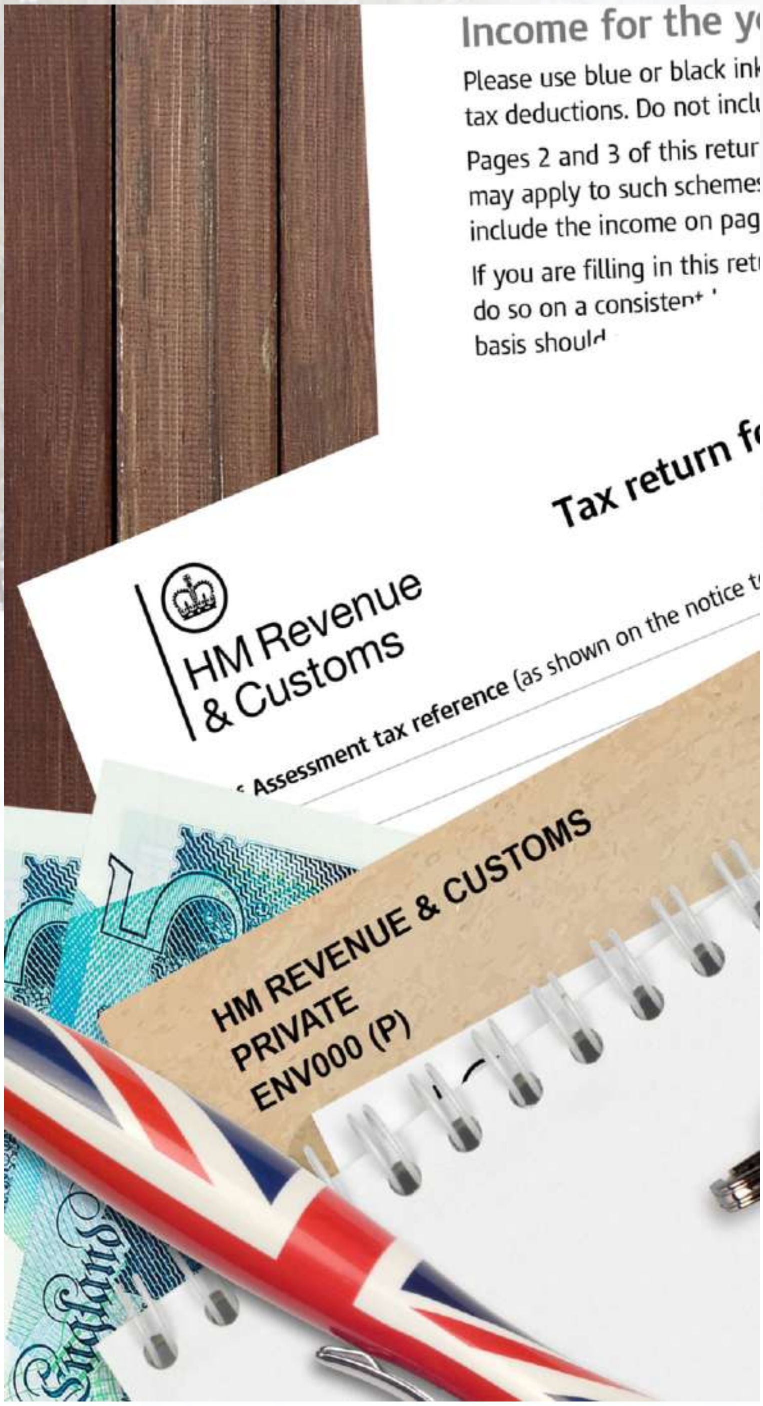
Income tax

- **Is your total income for this tax year likely to be in excess of £50,000** resulting in you being hit with the high income child benefit charge?

- **Is your total income for this tax year likely to be in excess of £100,000** resulting in you losing, in whole or in part, your tax free personal allowances?

- In both those cases, **would making a gift aid payment or a pension top up prior to 6th April 2024 mitigate that problem.**

- If you are Scottish resident and you have your own business, with the ever increasing Scottish tax rates on earned income, is it worth bringing forward salary payments into this tax year or perhaps better still paying out a dividend based on UK tax rates.



Don't forget

- **Even if you have had no earned income in this tax year you can still put £2,880 into a pension scheme and the Government will top it up to £3,600.** If not for yourself what about your kids or grandchildren?

- This is a good time of the year to look at ways to mitigate your tax position going forward as you go into the new tax year.

Tip

We would be happy to carry out a full year-end review with you. Please let us know if you are interested.

Pension – Take Home Pay Anomaly

Broadly speaking pension contributions are made in one of two ways.

- **The net pay arrangement (NPA).**
- **The relief at source (RAS) scheme.**

The majority of employees who contribute into an occupational pension scheme do so under NPA. **In that scenario 100% of contributions are deducted from a person's gross salary (i.e. before tax has been deducted). Thus the employee does not pay income tax on an amount equal to their contributions, thereby receiving tax relief at their marginal rate of tax.** As Scottish rates of tax differ from the rest of the UK this relief could range from 19% to 47%.

The RAS scheme is used by the self-employed but also by employees who may either want to top up their pension provision or whose occupational pension scheme operates under RAS rather than NPA. There are also people who are not in receipt of any earned income, but despite that can pay up to £2,880 per tax year using RAS and receive a pension top up.
Under RAS the person pays 80% of the gross pension contribution and HMRC make up the 20% difference into the pension pot. A higher rate taxpayer does not, under RAS, miss out on the additional tax relief enjoyed by those under the NPA as they can claim usually through completing a self-assessment tax return.

For most taxpayers either method collectively results in the same amount of income tax relief being given.

However for those individuals whose taxable income is less than their tax free personal allowances there is a difference because under NPA the person receives no tax relief whilst under RAS they will.

NPA example (2023/24 tax year)

- **Arif is a non-taxpayer employee with a monthly salary of £1,000.**

- **He makes gross monthly pension contributions of £50 under NPA.**

- **His net monthly take home pay is £950 (£1,000 - £50) with a pension provision of £50.**

RAS example (2023/24 tax year)

- Tom is a non-taxpayer self-employed with monthly earnings of £1,000
- He makes a net monthly pension contribution of £40 under RAS.
- **His net monthly take home pay is £960 (£1,000 - £40).**
- **Under RAS the pension provision is topped up to £50 by HMRC.**

In the two examples above there is clearly an anomaly, although the pension provision is the same, **Arif is worse off over the course of the tax year by £120 in comparison to Tom as regards his take home pay.**

With effect from April 2024 (2024/25 tax year) onwards the intention is to r emove this unfairness. Shortly after the end of each tax year, HMRC will identify the Arifs of this world and will then ask them to provide bank account details for the 20% top up to be paid across to them. In Arif's case that would be £120.

Tip

If you would like to look at the tax implications regarding your pension situation we would be happy to carry out a review for you.

National Insurance Myth Exploded

The myth regarding how to treat both employers and employees national insurance (NI) as regards car allowance payments has been destroyed following HMRC's two recent court defeats. Importantly, HMRC will not be appealing against those rulings.

Some businesses pay their employees a car allowance on top of their salary, to cover the overall running costs for their own car.

This allowance would normally be put through the payroll on a monthly or weekly basis. **HMRC's historical position has been that this allowance is earnings and therefore the whole amount should be liable to NI.**

The courts have disagreed with this long held view. **Where an individual does business mileage, NI relief should be given against part or all of the car allowance. The NI relief calculation should be based on a 45 pence per mile rate.**

For example

- Ollie uses his own car for business purposes.

- His employer, Blades Ltd, pays him a car allowance of £4,000 on top of his annual salary of £35,000.

- In this particular tax year, Ollie does 3,000 recorded business miles. Blade Ltd do not reimburse him for any business mileage.

- **£1,350 (3,000 business miles x 45p) of his £4,000 car allowance should attract NI relief.**

- The effective NI relief would be £135 (employees NI) and £186.30 (employers NI).

- If Blade Ltd had paid Ollie a mileage allowance of 12 pence per mile the NI relief would have been on £990 of the car allowance (3,000 business miles x 33p (45p – 12p)).

Following HMRC's defeat, it may be possible for affected employers and employees to make an NI refund claim going back up to 6 tax years.

However, HMRC may want to see that a bona fide car allowance arrangement was in place at the time and the business mileage records can substantiate the claim.

Going forward, if the business pays an employee a car allowance, they will need to ensure that when running the payroll, it takes account of the NI relief for the business mileage carried out during that pay period.

Tip

If you believe you may be entitled to an NI refund for past years off the back of the court ruling or you are worried about how to apply the NI relief through the payroll going forward please do not hesitate to contact us.

Status Refunds Or Offsets?

In broad terms, since April 2017 as regards public sector bodies, and since April 2020 in respect of medium or large private sector businesses, where they 'contract out' work to a personal services company (PSC), they run the risk of HMRC arguing that the individual carrying out the work is actually deemed to be a worker/employee of theirs and not that of the PSC. This is known as falling foul of the IR35 rules.

Presently when reaching a settlement with HMRC the deemed employer cannot offset the tax and national insurance which might already have been paid over to the tax man by the PSC or worker, such as corporation tax, employment taxes or tax on dividend income.

For example

- In May 2020, Rudge Ltd engaged a PSC, James Wilson Ltd to carry out some work for them.
- Out of the income paid across to the PSC, James Wilson Ltd and James Wilson himself suffered tax amounting to £18,000.
- HMRC opened an enquiry on Rudge Ltd on the grounds that the true relationship between that company and the individual, James Wilson was one of an employer/employee.
- In December 2023, Rudge Ltd accepted they were caught by the IR35 rules and reached a settlement of £25,000 with HMRC which covered their tax and that of the PSC/worker.
- **Under the present rules the £18,000 incurred by the PSC/worker is not set off against the £25,000 owed by Rudge Ltd.**

This would seem to be an unfair situation. The 2023 Autumn Statement has tried to rectify this matter. **Settlements finalised after 5th April 2024 will result in the PSC/worker's tax already incurred being offset against the deemed employer's liability. So in the case of Rudge Ltd, it would only need to pay £7,000 as opposed to £25,000.**

Going forward therefore, the situation has now been clarified. **However what about the HMRC settlements which have been reached with the deemed employer between April 2017 and April 2024?** Both them and the PSC/worker have suffered tax and possibly NI on the same income.

It has been agreed that income should not be taxed twice. Therefore, a**s HMRC has taxed the deemed employer on the full amount, the PSC/worker should be refunded the tax and NI they have suffered.** Back in 2022, the Department for Work & Pensions set aside £88 million for these refunds to be made once HMRC notified the relevant taxpayers of their entitlement to it. Upon receipt of a freedom of information request back in 2023, the Revenue admitted that they had not yet informed anybody of that right to a refund. **Could you be one of those taxpayers?**

Tip

If you are a business in the throes of agreeing an IR35 settlement with HMRC, reach agreement with them to delay the finalisation of it until after 5th April 2024 to obtain the offset. If you are a PSC/worker who feels they may entitled to a refund, please contact us and we can look into it for you.

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