The Construction Industry
Joint Taxation Committee

JTC

JTC NEWSLINE

Issue 169 December 2022

Autumn Statement

You will have noticed that there was no Newsline special following the Autumn Statement in November. This is because, mercifully, there was no news specific to the construction industry to report, and nothing else of particular urgency or concern.

As you will have seen in the newspapers, the main event was the freezing of rates and allowances - the "stealth tax" or "fiscal drag" as it is sometimes described. This description seems to me a bit harsh. Yes, you will pay more tax from next April – if, and only if, you make more money and then only on the extra money you might make. That can't be a bad thing, surely? (The rates may be slightly different if you are a Scottish taxpayer, but the Scottish government isn't due to confirm its rates till 15 December.)

The only other thing to note is the updating of this page of rates and thresholds to reflect the reversal of the short-lived increase to National Insurance rates. ■

Electric cars

The advisory rate for fully electric cars – the amount you can reimburse your employees for fuelling an electric car without having to prove the actual cost – has risen from 5 pence to 8 pence per mile as seen in this table.

There is a fuller article on the taxation of electric cars by one of our guest writers, Rebecca Benneyworth, attached to this issue for you to peruse at leisure over the Christmas holidays. ■

Loan Charge

Hopefully no-one who reads this newsletter needs to know what is meant by the Loan Charge, which is a controversial way of avoiding tax on salaries and bonuses by disguising them as loans which don't have to be repaid. There is a great deal of grief involved for people caught by various attempts to force people to be paid in this way and/or to pay the tax HMRC then regard as due.

The only reason I am bringing it to your attention now is that HMRC are sending out letters to people that they think

- Should have included a loan charge in their 2018-19 return or
- Haven't included what HMRC thinks is the correct amount of loan charge in their 2018-19 return or
- Haven't made a 2018-19 return at all when HMRC thinks they should and it should have included a loan charge.

HMRC are issuing these letters because the four years time limit for them to make discovery assessments will run out soon. If you are unfortunate enough to fall into that category and you receive a letter like the ones shown in the links on this site then you need to take advice urgently. ■

VAT and energy bills support

It hadn't occurred to me previously that the energy bills support scheme might make a difference to the VAT treatment of energy supply, and the update to VAT notice 701/19 makes it clear that it doesn't. (But it might if they change it in future.) Definitely in the "I'll worry about this tomorrow" category! ■

Umbrella companies

There has been a recent update to HMRC's guidance on umbrella companies to show how umbrella company workers are engaged. There are new sections to help workers understand their pay and employment rights and check that their tax and National Insurance is correct. ■

COVID-19 support payments

HMRC have also updated their guidance on reporting COVID support grants with a reminder that grants and payments to support businesses during coronavirus (COVID-19) are taxable and need to be declared on Company Tax Returns. Essentially the grants replaced lost turnover so they have to be reported as if they were turnover, whether on a company return or an individual self assessment. ■

If you have any feedback or queries relating to any of the items in Newsline email: wendy.bradley.42@gmail.com

And finally...(Yo ho ho)

Christmas is coming! Don't forget to file your monthly CIS return by 19 December, and also to get on with your self assessment return ready for January. If you have an income tax liability that you want to pay by deductions from a PAYE source (for example if you're employed but with a self-employed "side hustle" and you want to pay the tax on the self employment by having a bit deducted from your wages every month instead of paying one or two big lumps of cash) then you need to get the return in by 30 December. Otherwise the deadline is the end of January, but why let it linger?

If you don't do your own return but use an accountant, get the necessary information to them as soon as you can – imagine if all of your customers for the year had the same deadline and you'll see why they won't thank you for giving them a box of records on 30 January!

Attached are two longer articles by guest authors, on VAT Penalties and on the taxation of electric cars, for you to read over the long dark teatime of the soul that is the break between Christmas and New Year. I hope you find them useful: your feedback on whether you would like similar pieces next year would be very welcome.

Merry Christmas to all who celebrate, and a Happy New Year! ■

VAT Penalties

Rebecca Sheldon

A new penalty regime for late submission and late payment of VAT comes into force from 1 January 2023. (You may have heard about this before as it was originally scheduled for April 2022).

For VAT return periods that start on or after 1 January 2023, the old default surcharge regime is replaced with the new rules. (This is for VAT periods from 1 January 2023, not return periods that start earlier but don't end till after 1 January 2023).

Late submission penalties will now work on a points-based system. For each return submitted late, that is 1 penalty point. Once a certain number of points, the "penalty threshold", is reached you will be charged £200, and then another £200 for each further late submission. The good news is that your points can be set back to zero if your returns are submitted on time during the compliance period, and all outstanding returns for the previous 24 months have been received by HMRC.

The length of the compliance period depends on how often you have to submit returns:

Submission frequency	Penalty points threshold	Period of compliance
Annually	2	24 months
Quarterly	4	12 months
Monthly	5	6 months

So that's good news for late **submission** of returns. For late **payment** there is now a time-based system. If you pay up to 15 days late (not recommended, but we all have occasional cash flow problems) this will not result in a penalty, provided that the payment is made or a payment plan is agreed.

If you pay between 16 and 30 days late, there will be a 2% penalty on the VAT outstanding.

If it is 31 days late, there will be an additional 2% penalty on day 30, and there is an additional annualised 4% penalty.

There will also be a period of **familiarisation**. HMRC say they will not charge a first late penalty between 1 January 2023 and 31 December 2023, if you pay in full within 30 days of the due date. The full details are set out here.

In terms of **interest**, from 1 January 2023 HMRC will charge interest from the day the payment is due until the payment is made in full. This would be at the Bank of England base rate, plus 2.5%. The rate for repayment interest will be lower: this will be the Bank of England base rate minus 1%, with a minimum amount of 0.5%.

In the writer's view, the changes are broadly a positive thing. The default surcharge regime can operate unfairly in that it can penalise those who have merely confused dates slightly or perhaps not set up the direct debit in time. This new regime penalises repeat offenders, which is significantly less draconian.

Rebecca Sheldon is a tax barrister. https://www.taxchambers.com/barristers/rebecca-sheldon/ ■

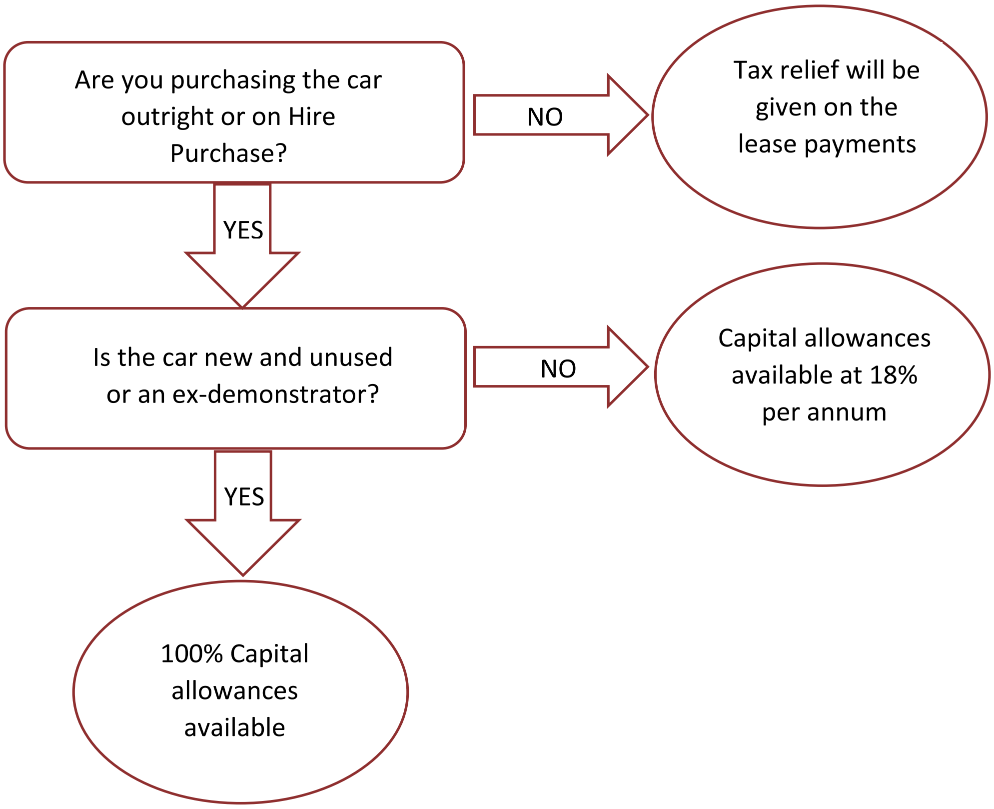
JTC BRIEFING
December 2022

Electric cars

Rebecca Benneyworth

This briefing is intended to clarify the tax rules in relation to electric cars, from buying to charging and more besides. Read on …

Buying an electric car for business use
The tax relief available can be generous, but you'll need to double check before buying if you are relying on a big tax deduction which is widely publicised. See the flowchart below for more information.



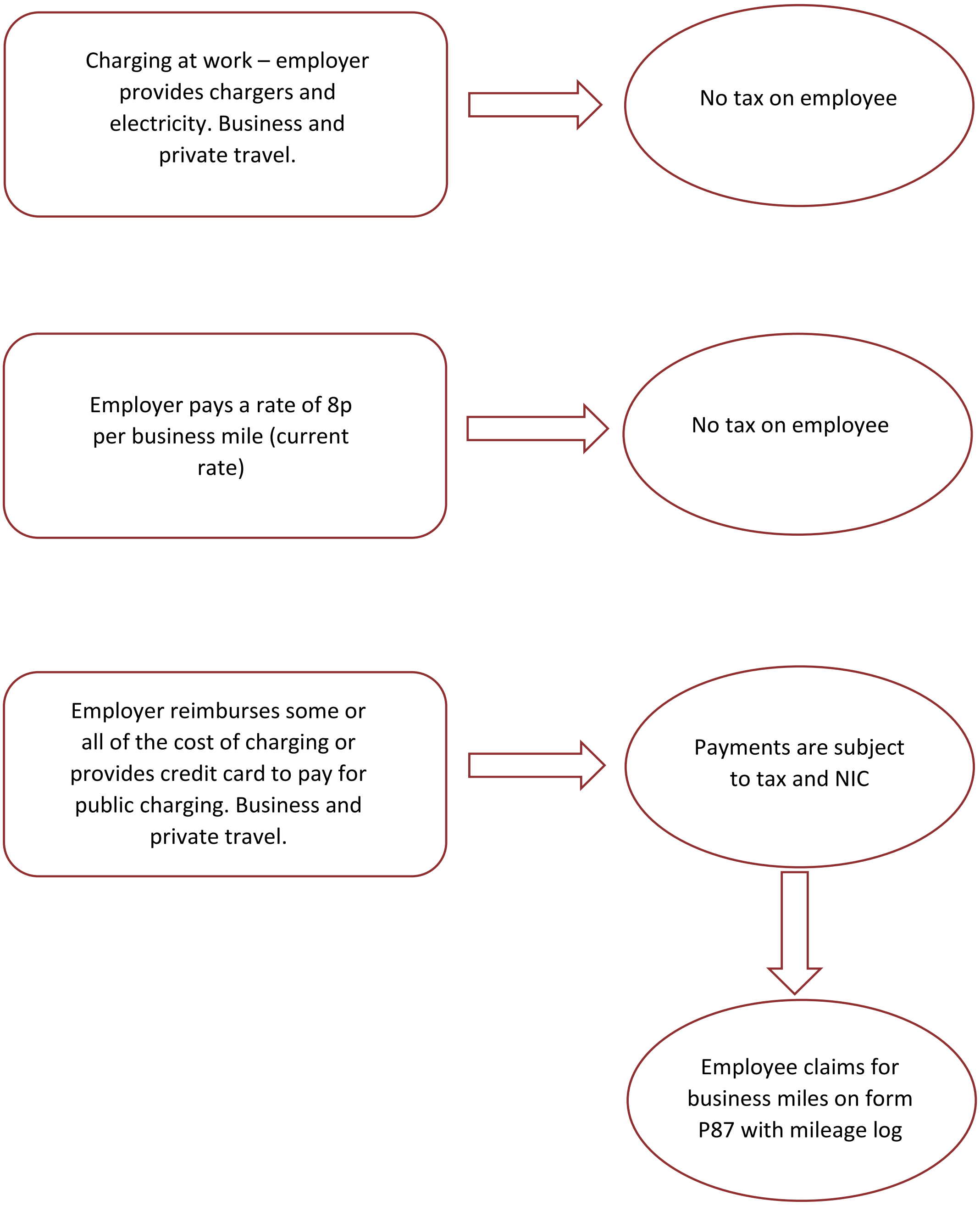
Charging the car
There are a variety of options, and HMRC is not always at the forefront on this topic, but here are the scenarios:

- Pay a business mileage rate for electricity at up to 8p per mile tax free from 1 December (the previous rate was 5p. You can check the current rates, which are updated on 1 March, 1 June, 1 September and 1 December each year here.
- If you install a charger at the workplace for employees to charge for free, there is no tax on this benefit
- You can install a charger at the employee's home for them to charge their car. There is no employee tax implication on the installation or the cost of the charger, and the business can claim capital allowances at 100% on the cost.

Charging the car cont'd

- If the employer pays for some or all of the employee's electricity costs current HMRC guidance states that this should be treated as pay and subject to tax and National Insurance deductions. The employee can then claim tax relief on the business proportion using a mileage log to evidence their claim.
- If the employee charges at public charging points then reimbursements by the employer, or the use of a company credit card to pay for charging is similarly taxable, with a claim for business mileage available to the employee.
- Some electric cars (and some apps available to monitor electric car charging and electric use) might provide an alternative evidence base for the employee to claim tax relief on the reimbursed cost of charging either at home or on public chargers; these, used in association with a mileage log might be able to more accurately reflect the actual cost of electricity used on business journeys, as many public chargers now engage in dynamic pricing, with prices rising when demand is high.

Summary – charging the car



Other running costs
There is no tax charge on the employee of any other running costs associated with the car, as this is covered by the benefit in kind rules (see below).

Benefit in kind tax on electric cars
The current rate of benefit in kind tax on company provided electric cars is 2% of the original list price (even where a second-hand electric car has been provided). This will remain at 2% for the next two tax years and then rise to 3% in April 2025, 4% from April 2026 and 5% from April 2027. There is no doubt that the significant rise in take up of electric motoring has in part been due to the generous benefit in kind rules, as well as the capital allowances available.

What about employees using their own electric cars for work?
If an employee owns an electric car and uses it for work journeys, the simplest option is for the employer to pay a rate per business mile travelled. The employer can pay up to 45p per mile for the first 10,000 business miles in a tax year, after which the rate reduces to 25p. Where it is necessary to take work colleagues as passengers on a business journey a further 10p per per mile can be paid tax free. Where the employer pays a lower rate than the maximum permitted, employees can claim a deduction from their income for the balance (but not the passenger payments).

Claiming tax relief on business motoring
Claiming tax relief is done using form P87. It is a very simple process, and can be done online through the personal tax account or there is a printable version of the form on HMRC's website which can be completed on paper and posted. It is not necessary or even desirable to use companies advertising their services to complete a claim as their charges are often very high. ■

Rebecca Benneyworth is a well-known tax expert https://www.rebeccabenneyworth.co.uk. ■