

## How safe is your cash?

We all think that it will not happen to us but currently, in the UK, banking fraud totals about £800m per year or over £2M per day. As the internet continues to invade our business and home life computers are increasingly the open door to our savings. We can become complacent with both physical and computer security. It is not the purpose of this brief article to tell you what steps to take but to urge you to act before it is too late and you are in a dispute with your bank about who in your team is to blame for the loss of funds, let alone when and if you are to get it back!

## GDPR

A new data protection regime came into force on 25 May 2018. Under General Data Protection Regulation (GDPR) processing of personal data by organisations must comply with GDPR from that date.

GDPR helpfully defines personal data as any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier.

Or more simply; information specific to a person.

The organisation in charge of enforcing compliance is the Information Commissioner's Office (ICO). Its message is that GDPR is 'a huge opportunity for you, as small businesses, to get information handling right.'

GDPR replaces the existing Data Protection Act (DPA), significantly raising the bar on how personal data is handled. Greater protection to individuals is achieved through key changes, such as: an expanded definition of personal data, based on a wider range of personal identifiers: the need to identify a lawful basis for processing personal data: and a range of new rights for the individual, including the 'right to be forgotten.'

Also new is the fact that GDPR applies both to data controllers (those determining how and why data is processed) and data processors (those responsible for processing data on behalf of a controller). Under the GDPR, data processors will be specifically required to maintain records of personal data and processing activities. They will also have increased legal liability for any breaches. Data controllers will have to ensure that contracts with processors are GDPR-compliant.

Although DPA-compliant businesses will, in the ICO's words, be 'well on the way' to GDPR compliance, they will need evidence to show they are implementing the new rules. Failure to comply could result in significant fines.

Information Commissioner, Elizabeth Denham, said, 'We know there are particular challenges for small organisations in preparing for the new law. All organisations are different ... whether you're a micro-brewery with 20 staff, or a tech start-up with 200, you can get it right.'

Whilst the motive behind GDPR is commendable, implementation and guidance by government has been weak, never the less GDPR compliance will need to be implemented, monitored and reviewed.



## Pensions auto-enrolment: the story continues

All employers now have responsibilities under the pensions auto-enrolment (AE) regime, as this reminder from the Pensions Regulator (TPR) shows. Anyone employing at least one person is classed as an employer, and must put certain staff into a pension scheme and contribute towards it.

The regime does not stand still. From 6 April 2018, there are changes to the minimum AE contributions that must be made by both employer and employee. The total of minimum contributions rises to 5% from this date, being a minimum employer contribution of 2% and staff minimum of 3%. Further increases apply from 6 April 2019, when employer minimum rises to 3% and staff minimum to 5%.

The government is monitoring the AE regime closely. Whilst TPR has published figures showing a record number of 9.3 million people saving for a future pension, there is still concern that even the projected increase in AE contributions is 'unlikely to give all individuals the retirement to which they aspire.' A recent government review pledges to focus on younger people, part-time workers and the self-employed in the next round of AE developments. One change suggested is lowering the age threshold for AE from 22 to 18. It is also suggested that pensions contributions be calculated from the first pound earned, rather than from a lower earnings limit. However, it is not expected that these changes will be implemented until the mid-2020s.

Recipe for Gazpacho. Mix together equal amounts of cucumber, peppers, tomatoes, garlic, spring onions and stale bread then season with a little sherry vinegar olive oil, salt and pepper. Chill for 30 minutes or over night. Whiz in a blender until smooth, adjust seasonings, chill again and or add ice. Serve.

## Is it a car – or is it a van?

In terms of tax, providing employees with a vehicle which fits within the definition of a van, rather than a car, can be very worthwhile. This is equally relevant to company directors, who are also treated as company employees. A recent tax case sheds interesting light on how cars and vans are defined for income tax purposes.

### Advantages

If an employee is given an employer-owned van, where they are given exclusive use of the vehicle, and it is available for private use, there is a taxable benefit. In 2018/19, this is a flat rate charge of £3,350 for vans that emit CO<sub>2</sub>.

This contrasts favourably with company car rules. The taxable benefit on a company car is generally based on a range of 13% - 37% of the manufacturer's list price of the car, including accessories, and will depend on the carbon dioxide emissions, and whether diesel or petrol driven.

Vans also have advantages over cars in terms of fuel. Where there is a chargeable benefit for an employer-provided van, and the employer provides fuel for the employee's private use, a van fuel benefit charge arises: £633 for 2018/19. As regards National Insurance, provision of either a car or van as a benefit in kind can give rise to an employer charge to Class 1A at 13.8% of the assessable benefit.

### Definition

Given the tax at stake, it is not surprising that HMRC's guidance on what constitutes a van runs to many pages. And to add to the complexity, what holds good for Vehicle Excise Duty and VAT, doesn't necessarily hold good for income tax. The key point is whether the vehicle is a goods vehicle – defined as 'a vehicle of a construction primarily suited for the conveyance of goods or burden of any description.'

HMRC have special guidance on off-road vehicles and double cab pick-ups. Double cab pick-ups are, broadly, pick-ups with a

second row of seats, capable of seating about four passengers plus driver, with four doors capable of being opened independently, and uncovered pick-up area behind the passenger cab. HMRC say it is not possible 'to come up with a single categorisation for all double cab pick-ups. Nor is it possible to give a blanket ruling on any particular makes ...' So each case will depend on the facts and the exact specification ...' Generally, HMRC define a double cab pick-up as a vehicle with a payload of one tonne (1,000kg) or more, and there is small print about how to define payload and how the vehicle hard top fits into the calculations.

### Caution

All this was put to the test in a recent tax tribunal case, where the Vauxhall Vivaro and Volkswagen Transporter Kombi 1 and 2 came under the spotlight with a degree of intensity befitting a television car show. Each vehicle had been modified.

The judge considered maximum load that could be carried, braking systems, loading areas, modifications like extra seating and storage racks, provision of seat belts, climate controls, power sockets and sound-proofing, not to mention the role of the bulkhead in enabling goods to be carried in the rear cargo section and ensuring protection of passengers in the mid-section. He found that the Vivaro was a goods vehicle, but the VW Kombi was multi-purpose, and should be classed as a car. The judge suggested that vehicle modifications did not need to amount to a 'fundamental alteration in structure' in terms of 'core framework or chassis or body.' The definition of 'construction' could be wider than simply the 'original construction' of the vehicle and could include subsequent modifications.

Tax tribunals do not produce binding legal precedent. But this case serves as a reminder that company vans can have tax advantages and that in this complex area, professional advice is always advisable.

