NEWSLETTER

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Raising revenue

The Chancellor announced in the Emergency Budget that the standard rate of VAT is to increase from 17.5% to 20% for supplies made on/after 4 January 2011.

In principle standard rated supplies that take place after 3 January 2011 will be subject to the 20% rate, with the VAT fraction for supplies which are inclusive of VAT changing to 1/6.

As the date of change is not at the end of a month it does mean that most VAT registered businesses will need to exercise great care when completing the VAT return that spans the changeover date. Some may even need to charge different rates on an individual supply, where there is a requirement to apportion it over a period spanning the 4 January. HMRC have already provided detailed guidance on their web site at www.hmrc.gov.uk/vat/forms-rates/rates/rate-increase.htm but please get in touch if you would like some help in this area.

The guidance also provides revised fuel scale charges and flat rate percentages, ready for the changeover.

As with previous rate changes the time of supply rules will be of great significance, so a clear understanding of those will be vital to getting invoicing right. There may be opportunities for advance invoicing and payment at the lower 17.5% rate but anti forestalling legislation is in place to prevent misuse of this process. If you would like to discuss the best way to approach invoicing across this period, we would be pleased to help you.

AUTUMN 2010

All rise - CGT is now in transition

Speculation of significant Capital Gains Tax (CGT) changes abounded in the period leading to the coalition's Emergency Budget but what truths emerged?

No change was in fact announced in respect of the CGT annual exemption which allows the first £10,100 per tax year of an individual's gains to be tax free. Announcements were made which affect the rate of tax which may be payable on any gains in excess of this amount and that change has an immediate impact.

The 2010/11 tax year is effectively split into two parts when determining what rate of tax applies.

- Gains arising before 23 June 2010 are generally taxed at a flat rate of 18%.
- Gains arising on or after 23 June 2010 could be taxed at either 18% or 28%.

In situations where Entrepreneurs' Relief is available the effective CGT rate remains at 10% throughout 2010/11.

The details uncovered

From 23 June 2010, the CGT rate is determined by the level of an individual's total taxable income (after personal allowance) and chargeable gains. In arriving at chargeable gains, allowable deductions such as losses, and the CGT annual exemption are taken into account. For 2010/11 where the combined amount is below £37,400 the chargeable gains will be taxable at 18%.

Gains or any parts of gains above this limit will be taxable at 28%.

An important aspect of these rules is that an individual can choose to allocate general capital losses and the annual exemption in any way that minimises their overall CGT liability. For example, it will make sense to allocate allowable losses and the annual exemption against gains that are facing a 28% CGT charge rather than gains which are facing an 18% charge. It is irrelevant whether any available capital loss arises before or after 23 June 2010.

Keeping and retaining good records will be essential to ensure gains are not only correctly calculated but that the CGT liability is minimised. In particular it will be critical that evidence is available so that the correct date of disposal can be clearly identified.

Raiding the piggy bank

The coalition is to reduce and then stop the government's contribution to Child Trust Fund (CTFs) accounts.

CTFs were designed to give children a financial head start in life with a fund accessible when they reach 18 and there are now around five million active accounts. The popularity of the accounts arises from two key characteristics. The first is the tax-free nature of the accounts, which is why they are sometimes referred to as 'the childrens' ISA', and the second is the financial contribution from the government to kick start the investment.

Up until now, every baby born after 31 August 2002 has received £250 (£500 for low-income households) in the form of a voucher, with youngsters getting a top-up payment from the government (typically £250) when they reached seven.

The amount to be contributed at birth is to reduce to just £50 for births on or after 2 August 2010 (£100 for children from low-income households) and is set to cease entirely from early in 2011. The government top-up payments at age seven has ceased for those children that turn seven on or after 1 August 2010.

What about existing accounts?

Accounts set up for eligible children will continue to benefit from tax-free investment growth. No withdrawals are possible until the child reaches age 18. The child's friends and family will continue to be able to contribute up to an overall total of £1,200 a year and it will still be possible to move it to another provider.

Children born after all the relevant legislation is in place will not be eligible for a CTF account. This appears to mean that the availability of this tax-free vehicle for family investment is withdrawn as well as the government financial contribution.

For more information about CTFs generally including any further developments visit www.childtrustfund.gov.uk

War on Wages

New rate for apprentices

A new addition to the National Minimum Wage (NMW) family is being introduced on 1 October 2010. For the first time there will be a minimum wage for qualifying apprentices of £2.50 per hour. This rate will generally apply to apprentices under 19 years old and those apprentices aged 19 and over who are in the first year of their apprenticeship. All other apprentices are entitled to the NMW rate appropriate for their age. For further information including the definition of an apprentice for NMW purposes visit: www.direct.gov.uk/en/Employment/Employees/TheNationalMinimumWage/DG_175113

Expansion of the main rate band

In addition to the above, the main rate band is to expand to cover those workers aged 21 and over rather than the existing band which covers workers aged 22 and over. This change on 1 October 2010 means that anyone aged 21 on a minimum wage will see an increase of £1.10 per hour as detailed below.

Increases for other rates

There will also be an increase in the other rates from 1 October 2010. The new and current rates are summarised below.

From	22 and over	Aged 21	18-20	16-17	Apprentices
1 October 2009	£5.80	£4.83	£4.83	£3.57	N/A
1 October 2010	£5.93	£5.93	£4.92	£3.64	£2.50

HMRC amend PAYE penalties guidance

At the start of the tax year new late payment penalties were introduced for PAYE and other payments due from employers such as national insurance contributions (NICs). The new rules apply to almost all employers and contractors, whether they employ one or a hundred employees. The rules apply to monthly, quarterly and annual periods of PAYE starting on or after 6 April 2010.

HMRC can impose late payment penalties on PAYE amounts due that are not paid in full and on time, including:

- monthly, quarterly or annual PAYE
- student loan deductions
- Construction Industry Scheme deductions
- Class 1 NICs and
- annual payments of employers' Class 1A and Class 1B NICs.

HMRC have now amended their guidance to include comments on so-called 'warning letters'. HMRC state:

'The letter is only to let you know that HMRC think you have made a PAYE payment late and that a penalty could be charged. It is not a penalty notice and you can't appeal against it.

Importantly, it does not mean a penalty will definitely be charged, and you may get a penalty even if you do not get a letter.

If you agree that you have made a late payment, you should make sure you pay on time and in full in future. The next time you pay late you may become liable to a penalty. HMRC will contact you before a penalty is charged. If they charge a penalty they will send you a penalty notice.

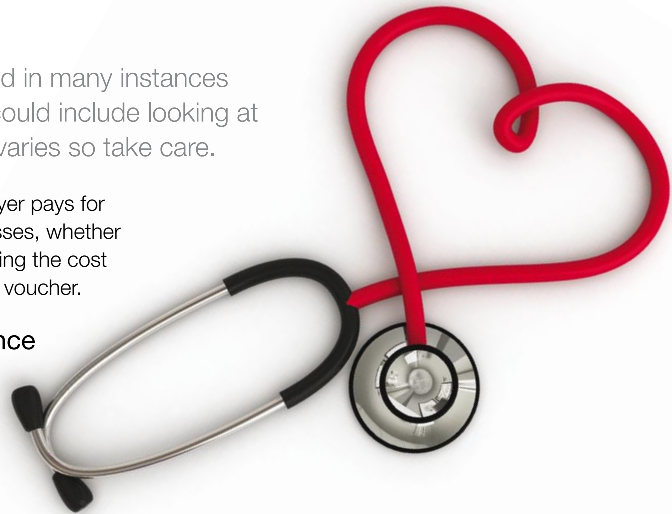
If you believe you have received a letter in error, perhaps because you have already paid, have a time to pay agreement or have a 'reasonable excuse' you don't need to contact HMRC yet. But you may find it helpful to make a note of why you don't think a penalty is chargeable in case HMRC contact you about penalty action in future.'

If you receive a letter but have paid on time, it may be worth telling HMRC that their records are currently wrong to avoid problems later on. If you are experiencing problems with paying PAYE or any other tax on time, HMRC may be prepared to defer payment and this, in turn, may avoid penalties.

Please get in touch if you would like to discuss this further.

To perk you up!

Protecting business assets is integral to any well managed business and in many instances employees are one of those key assets. Looking after their well-being could include looking at providing benefits in connection with health care but the tax treatment varies so take care.



Prevention is better

As the saying goes prevention is better than cure so health screening is a good place to start. An employer can provide one health screening assessment and/or medical check every year to employees tax-free. This exemption covers both income tax and national insurance.

The eyes have it

Employers may be required by law to provide, or meet the cost of, eye care tests and/or corrective glasses for their employees.

Where an employee is required to use a computer screen (also referred to as a visual display unit (VDU)) as part of his or her normal duties, no chargeable benefit will arise on:

- an eyesight test, and
- the cost of spectacles or contact lenses required solely for VDU use.

This is the position where the test is required under Health and Safety at Work regulations and, if shown to be necessary by the test, the corrective glasses or contact lenses are available generally to employees.

Where spectacles are for general use but also include a special prescription for VDU use, only that proportion of the cost relating to the special prescription will be tax exempt.

It does not matter how the employer pays for the eye test and/or corrective glasses, whether direct to the provider, by reimbursing the cost to the employee or by providing a voucher.

Private health care insurance

The cost of providing comprehensive medical insurance cover can be substantial but the access to private healthcare or dental treatment can prove to be a worthwhile investment when medical problems are identified and treated swiftly.

Such provision is however a taxable benefit on the employee, potentially liable at 40%/50% income tax. It is also reportable on form P11D and attracts Class 1A employers' national insurance currently at 12.8%.

An alternative policy could be to pay for private health treatment on an arising basis, a type of pay-as-you-go arrangement. Any costs incurred by the employer would again amount to a taxable benefit but there may be scope for including such one off benefits in a PAYE settlement agreement. This is an annual agreement whereby the employer agrees to account for the tax and national insurance on certain minor or irregular benefits rather than include them on form P11D/payroll. If you require further information on PAYE settlement agreements please do contact us.

Working overseas

Where overseas working is part of the duties of employees and/or directors, medical cover would appear to be common sense. In these circumstances payment by the employer for any foreign element is tax free. This means that:

- any specific payment for overseas medical treatment is exempt
- a premium for overseas medical insurance cover only is exempt
- the cost of general cover in the UK and overseas would have to be apportioned on a reasonable basis with only the overseas element being tax-free.

Do contact us if you are looking to review any elements of your remuneration packages for further advice.

Time to spend?

Capital allowances have changed significantly over the last few years and there are more changes in store, causing confusion about what allowances are available and when is the best time to buy new assets. As the changes have been announced quite far in advance it provides an opportunity to plan for the timing of capital expenditure in a tax efficient way.

The changes as detailed below will affect the self-employed from 6 April 2012 and companies from 1 April 2012. General plant and machinery currently qualifies for a writing down allowance (WDA) of 20% but this rate is dropping to just 18%. However, in the case of companies the potential impact of the reduced tax relief on capital allowances will be balanced partly/fully by the fact that lower corporation tax rates apply on taxable profits generally from 1 April 2011 onwards. For a company which qualifies to be charged at the small profits rate there is a decrease to 20% from 21%. The main company rate is to decrease in stages commencing on 1 April 2011 by 1% each year until it reaches 24%.

Example 2012/13

For a business with a general plant pool balance of £50,000, allowances will reduce by £1,000, (20% -18% x £50,000). For a self-employed individual subject to higher rate tax this is an increase in the overall bill of £420. This assumes the higher rate of tax remains at 40% and the additional national insurance is 2% (National insurance increases by 1% from 6 April 2011 so the rate in excess of the upper limit increases from 1% to 2%). The increase in tax for a small company paying 20% corporation tax will in contrast only be £200.

The WDA for the special rate plant pool will also reduce from the current 10% rate to 8%. This pool includes certain plant fixtures in buildings, such as air conditioning and heating systems as well as cars with CO_2 emissions in excess of 160g/km.

The Annual Investment Allowance (AIA) is also to be reduced. This is an allowance which can be offset against plant and machinery acquisitions (excluding cars), effectively providing 100% tax relief within the allowable limit. The AIA expenditure limit increased at the start of April 2010 from £50,000 to £100,000, but will decrease significantly to just £25,000.

It would make sense for both companies and the self-employed to review their capital expenditure plans to take advantage of the higher allowance limit in the next 18 months. Please contact us for more detailed advice.

Securing 10% capital gains tax

As announced by the Chancellor in the Emergency Budget there is a significant rise in the Entrepreneurs' Relief (ER) lifetime limit from £2 million to £5 million for qualifying gains arising on or after 23 June 2010. Qualifying gains are taxed at a 10% rate which is very advantageous when compared to the standard 18% rate and the new higher 28% rate which applies from 23 June 2010.

This article recaps on which gains generally qualify for ER and some of the common pitfalls which can catch the unwary.

The whole or part of a business

A self-employed individual who disposes of the whole or part of their trading business interest generally qualifies for the relief.

However, where separate assets (such as a property) used in the business are sold, the key issue is whether such disposals qualify as a disposal of part of the business. If they do not, then any gains on assets will not qualify for ER. Contrast this with the situation where business assets are disposed of after the business has ceased to trade. Generally, gains on these assets will qualify assuming that the asset had been in use in the business at the date the business ceased trading and the assets are disposed of within three years of the cessation of the business.

Shares in a trading company

Broadly, the shareholder needs to own at least 5% of the shares with voting rights and must also be an officer or employee of the company.

Care needs to be taken as the company needs to be a qualifying trading company. A company that carries out trading and non trading activities can cause problems and claims for ER could be denied. HMRC's view is that non trading activities should not be 'substantial'. Their view is that substantial in this context means more than 20%. A number of indicators are considered including income and expenses, asset base, and time spent by management on different activities. For example, a company which has a trade also lets out an investment property. If the income from the letting is substantial when compared to the combined trading and letting income then the company may possibly not be a trading company. Similarly, if the value of a company's non-trading assets is substantial in comparison with its total assets then again this could point towards the company being classed as non-trading.

Trading premises

It is fairly common that an individual shareholder/partner may personally own the premises from which the company/partnership trades. In order for any gain arising on the disposal of this asset to qualify for ER the disposal must be an associated disposal. Broadly, this means that the individual makes a disposal of either the whole or part of their interest in the assets of the partnership or their shares in the company and the sale of the premises is made as part of that withdrawal from participation in the business.

Where the property has been rented to the company a restriction in ER may apply. This will only affect periods after 6 April 2008 so owners of premises will need to consider the position on rent going forward. If the owner has borrowed to purchase the property and needs the rent to service that borrowing then they have a difficult decision to take. If they stop the rent they retain the potential ability to obtain ER but will have to find some other route, perhaps less tax advantageous to fund the borrowing.

Note that conditions for the relief in all the scenarios above must generally be satisfied throughout the period of 12 months leading up to the date of disposal. Professional advice is generally recommended before entering such capital transactions to maximise any relief available so do contact us for assistance.

HMRC not a good sport!

A recent tax case considered whether a number of substantial payments made by a company, described as 'sponsorship' payments, to Plymouth Albion Rugby Football Club were deductible in computing the company's profits.

The company which made the payments is in the fisheries industry and, coincidentally, the controlling owner of the company was interested in rugby and a good player himself. His contact with the rugby club increased over the years.

The company's brand appeared on a perimeter hoarding, on players' shirts and on each page of the club's website. The company also used the club for business hospitality. In addition, the company lent money to the club and made substantial payments to cover what would otherwise be a deficit in the club's player budget.

The Tribunal held that the payments overall were not sponsorship but to improve the financial position of the rugby club and so were not an allowable deduction for the business.

The case can be contrasted with another, where the proprietor of a haulage business included the costs of a rally car and associated races in his accounts. In that case, the rally driving (undertaken by the proprietor himself!) was in a car painted in the business livery and the car was left outside the business premises. It was held that these costs were incurred wholly and exclusively for the purposes of carrying on the business and that the enjoyment of the proprietor was an incidental effect.

Where a business decides to sponsor a sports team, it doesn't always follow that the sponsorship is an allowable cost. Mixing business and pleasure can be an expensive occupation, particularly if there is no tax relief available, so seeking professional advice is recommended.

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