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Spring Newsletter

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Income shifting - now you see it, now you don't

It is no secret that, since the introduction of Independent Taxation many years ago, much tax planning has revolved around ensuring that all family members' personal allowances and lower rates of tax are used efficiently.

The introduction of an otherwise non-working spouse, let's say, as a partner or shareholder would allow part of the business's profit to be allocated to that spouse. Not difficult to do and lots of money to be saved. With companies, when this ploy is combined with the fact that there is no national insurance payable on dividends, there is plenty of tax and national insurance that could be saved.

Needless to say, the government said that they would address this "income shifting" in April 2008 and then deferred their proposals until April 2009. Then, in the Pre-Budget Report, the Chancellor made the following announcement:

'The government firmly believes it is unfair to allow a minority of individuals to benefit financially from shifting part of their income to someone else who is subject to a lower rate of tax, known as income shifting. The government has consulted on this issue but, given the current economic challenges, the government is deferring action and will not bring forward legislation at Finance Bill 2009. The government will instead keep this issue under review.'

So no news is good news - we'll keep you informed of any further developments.

SPRING 2009

Ten tips for coping with the downturn

Many businesses feel their cash resources are squeezed in the current downturn. Here are some ideas to make your funds stretch further:

1. Clearly state your sales credit period on your order confirmation documents and sales invoices, and enforce this period by chasing customers as soon as their payment is overdue. You can also encourage customers to pay quickly by giving small discounts for completing their payment within your credit period.
2. Send out your invoices for completed projects as soon as the work is completed. Don't wait until the end of the month to bill. If the project is running over several months agree a series of stage payments with your customer.
3. Analyse your entire stock for age and quality. Can any of the slow moving goods be sold off at a discount to generate cash? Would cutting the number of lines you sell reduce your storage and handling costs?
4. Review your supplier agreements for on-going services such as web-support, telecoms, security, energy, or cleaning. Can you renegotiate any of these contracts to get a better deal?
5. Talk to your neighbouring businesses. Is there a common landlord you could collectively approach to change the payment terms of all your leases from quarterly rent in advance, to monthly payments?
6. To reduce your total wage costs offer your staff flexible hours or part-time working. A salary sacrifice scheme can also produce savings if it is implemented properly, with HMRC approval. Tax free benefits such as the use of bicycles, child-care vouchers, or pension contributions are swapped for salary, and the national insurance and tax savings are shared with the employees.



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7. Link the incentives for your sales force to the profit per unit sold, or to the speed with which the customer pays for the order, rather than to the volume of units sold. You may also want to fix a threshold of minimum profits or cashflows that must be achieved before any sale bonuses are paid.
8. If you need new equipment, look for second-hand kit sold-off by less fortunate businesses. Alternatively, investigate leasing or hire purchase arrangements. These methods of acquiring equipment may be more expensive in the long term but they are a practical solution where you can't borrow the money you need from the bank to fund the full outlay in one go.
9. Review your VAT position and the schemes you use. Does the flat rate scheme for small businesses still deliver a bonus for your business following the change in rates on 1 December 2008? Where you run several companies, including them all in one VAT group may improve VAT management.
10. Keep your company's taxable profits below the 'large company' threshold of £1.5 million by timing expenditure and bonuses. Once you are a large company you must pay corporation tax due in four instalments starting within the accounting period rather than in one lump nine months after the end of the accounting year.

If you would like to discuss any of the above please contact us.

A time to give?

The last year has generally seen a fall in average house prices. However, the average price of a detached house at the end of 2008 was still around £340,000. The stock market has also seen significant falls with the FTSE 100 index down by almost a quarter on its January 2008 level. This is all very depressing but there may be a silver lining for those serious about doing some inheritance tax (IHT) planning.

Not an immediate priority? Well, if you are a married couple and the value of your joint estate - taking into account property, shares, savings and any other assets - currently exceeds £624,000 you already have an IHT problem. Maybe its not as bad as it was a year ago but it is still a problem!

Here's the opportunity. If you make gifts of assets to other individuals in your lifetime, those gifts are not chargeable to IHT unless you die within seven years of making them. If that sadly happens then some IHT may be payable but the tax is calculated not by reference to the value of the asset on the date of your death but by its value on the date it was actually gifted. In addition, once three years have elapsed from the date of the gift any tax bill which does arise may be reduced by 20% for each subsequent year. Making a lifetime gift therefore freezes value and makes the tax less of a problem.

Lets say you gift some shares worth £100,000 now and in eight years time the market is back up again and those same shares are worth £150,000. The tax on £150,000 falling into your estate could be £60,000. The tax on the lifetime gift will be nil.

There is another problem that a falling market can help with. A gift of an asset will be a chargeable occasion for capital gains tax purposes and so a gain could arise with a tax liability of 18% which is not particularly attractive. However, some assets may currently be standing at a loss and so can be gifted with no immediate CGT liability. Further, the loss arising may be available against future gains, in limited circumstances. (Where a gain is still likely we can advise on the use of a trust as a means of deferring that liability.)

Give some thought as to whether you can afford to make gifts and if possible look to give assets which are likely to grow significantly in value because they will provide a greater tax saving than simply giving cash. Only make gifts if you can really afford to do so - any gift must have no strings attached otherwise significant IHT problems can arise.

The early claim catches the credit

If you are self employed and planning on investing in plant and machinery for your business you might be entitled to cash in the form of tax credits but prompt action may be needed.

Capital expenditure on most forms of plant and machinery (except cars) up to £50,000 per annum now qualifies for 100% tax relief. This is known as the Annual Investment Allowance (AIA) and is a capital allowance relief available to most businesses for expenditure incurred since April 2008. A significant spend by a small business could have the effect of reducing the taxable profit to such an extent that the individual taxpayer becomes eligible for tax credits.

Tax credits are broadly aimed at low income families. However surprising entitlements can arise at times of income fluctuation, such as large capital allowances resulting in reduced trade profits.

Take the example of a self-employed electrician who has two children at school and who normally earns about £36,000 after expenses per annum. His spouse has no income. He buys a new van costing £20,000 for exclusive

business use in his accounting period to 31 March 2009. Let's assume that he had not claimed tax credits before because it was 'too much hassle for £545'. In 2008/09 he will be entitled to several thousand pounds of tax credits as his trading income is only £16,000. He will also be entitled to a further significant amount for 2009/10 because the claim will initially be based on the 2008/09 income and is not displaced provided that his actual income in 2009/10 year is not more than £25,000 higher.

However the claim for tax credits is time sensitive so by the time you provide us with your annual accounts information, you may have missed the chance to claim some of the amount on offer. This is because a tax credit claim can only be backdated by three months from the date of the claim.

You may therefore wish to consider making a protective claim for tax credits where there is any possibility that this may apply to you in the future. These may initially show that you have no entitlement but may result in much higher claims when adjusted for the lower income after claiming AIA. You can check your entitlement using the calculator on the HMRC website www.hmrc.gov.uk



Benefiting your business

The end of the tax year is fast approaching and it will soon be time to start filling out the dreaded forms P9D and P11D. The area of PAYE and benefits compliance is something that HMRC focus on. It can be complicated, easy to make mistakes and can raise substantial extra tax and national insurance for HMRC over many years.

There are certain areas that HMRC commonly review and you may wish to look at these to ensure a clean bill of health.

Status

Do you pay anyone on a self employed basis? Are you confident that they are not an employee for tax purposes? You may wish to review the arrangements, both contractual and otherwise, to ensure the self employment position can be maintained.

Termination payments

We are in times where redundancies and lay offs are becoming more commonplace. It may be possible to make a payment on leaving of up to £30,000 tax free. However, the rules are complex and the conditions for tax free status are not easy to meet. Please contact us before any payments are made.

Vans

Private use of an employer provided van is tax free provided that as well as business use, it is only used for 'ordinary commuting' and no other form of private use. 'Ordinary commuting' has a particular tax meaning. In addition, HMRC may want to see evidence that other private use is prohibited and documentary evidence that it actually does not happen. Review your van policies to ensure these tests are met.

Car fuel

Where an employee is provided with a car by their employer, then a benefit in kind generally arises. If fuel for private purposes is also provided to that employee, then a further benefit in kind arises! Unless private mileage is high, the benefit on the free fuel generally makes this policy uneconomic to the driver and business. HMRC also look closely at situations where a business pays for all fuel and the employee reimburses the private element - good policies and records are needed to avoid problems.

Personal incidental expenses

The rules exempt certain payments made to employees to cover incidental expenses that they may

incur while staying away from home overnight on business, such as newspapers, telephone calls, etc. However, the maximum amounts of that an employer may pay tax free are £5/night in the UK and £10/night abroad on average. If payments exceed these limits, the whole of the payment becomes liable to tax and national insurance and, these days, £5/night doesn't go very far!

Entertaining

Staff entertaining, such as taking staff out for lunch as part of the appraisal process, is an allowable business deduction but may well be taxable as a benefit in kind.

Long service awards

Tax is not charged in respect of awards made to employees as testimonials to mark long service which take the form of tangible articles (not cash). The tax free limit is £50 per year of service once the period of service reaches 20 years.

Pool cars

Where an employee is provided with a car by their employer, then no benefit in kind will arise if it is a 'pool' car. A car only qualifies as a pool car if it is available to, and used by, more than one employee; any private use by an employee is merely incidental to its business use; and it is not normally kept at home overnight. HMRC interpret these tests strictly and good evidence is needed to avoid a charge arising.

Travel and subsistence

And finally, the most common sort of payment that employers generally make to employees is to meet the cost of travel and subsistence costs, including hotels, whilst the employee is working. Often such payments will be tax free but the rules are not simple - HMRC explain them in a 100-page booklet (IR490)!

Conclusion

Forward planning, including good records and policies, will avoid trouble with the taxman in these areas. Please do get in touch if this is an area that you would like to discuss further.



Raising finance - the facts and the myths

Everybody knows that we are in an economic downturn and that the banks have stopped lending money - or have they?

Contrary to popular belief, banks have not stopped lending money to individuals or businesses. If you have a good business case, there is still funding available to businesses from the high street banks. Quite interestingly, the banks themselves have noticed a drop in demand for finance from customers. Some customers are still making investments but most are cutting back on capital expenditure due to the uncertainty of the future, whilst others feel that they will not be able to get finance even if they do apply.

So what kind of financing are banks offering? Most customers now need help to fund their working capital, and debt factoring or invoice discounting have, in recent years, far outstripped the traditional bank overdraft as a way of financing this. Gone are the days of debt factoring having a stigma and only being for businesses in financial trouble. From the banks' point of view, it is a safer way to lend as security is taken over the debtors of the business. This generally means that businesses can gain larger advances than are available under a traditional overdraft agreement. The downside in the current economic climate is that this type of lending has become more expensive - banks used to get credit insurance on business customers, but this insurance is now often being withdrawn as more and more companies admit to financial difficulties.

Banks do admit that it is tougher now to get finance due to the economic downturn. In the past, a customer with a long standing relationship and good historic performance would have been required to submit little extra information in an application for finance. Now even those customers will have to provide detailed business plans, with at least 12 months of forecast profits and cashflow. The most important thing to bear in mind when presenting such information to the bank is to be realistic.

To aid small businesses, the government has recently announced a plan to guarantee up to £20bn of loans to help them survive the economic downturn. In return for a fee, the state will, in effect, insure banks against businesses defaulting on loan repayments.

Central to the plan is a £10bn Working Capital Scheme designed to help banks lend much needed capital to small businesses. Lord Mandelson said:

"The £10bn injection to banks represents a guarantee to enable them to free up working capital to sustain existing loans and create new ones."

If you need any help with preparing information to be presented to the bank, please do not hesitate to contact us or your business adviser - it is important to get it right first time.

Getting some of your money back from the taxman

Where an unincorporated business makes a loss in a trade there are a number of ways in which the loss can be relieved. Very broadly the rules allow an offset against:

- all income and capital gains for the loss making year
- all income and capital gains for the previous tax year
- trading income from the same trade in subsequent years.

The carry back provision is now extended for trade losses made in the accounting period (or periods) which end in the tax year 2008/09. So a loss made in the 12 month period ending on 31 March 2009 will qualify but not a loss in a period ending 30 April 2009.

When can a business make a claim for loss relief?

The earliest time is after the end of the accounting period in which the loss is made and then submitting a claim to HMRC.

When can you get a tax repayment?

For existing loss provisions (eg the one year carry back) repayments will be made once the claim has been processed by HMRC. In some scenarios a repayment will not be made but will instead be deducted from a tax liability. For the new loss relief provision, HMRC will accept a loss claim but will not repay the tax until after Budget Day 2009.

What about companies?

There are similar rules for trading losses in companies but the loss must be made in an accounting period ending between 24 November 2008 and 23 November 2009.

Please talk to us

If you are currently making losses, please talk to us about these provisions so that we may maximise your entitlement to loss relief and also help to obtain an early tax repayment. This is particularly relevant if you are an unincorporated business as we may need to consider changing your accounting date so that your current losses fall into the current tax year.



Prevention or cure...

Selling on credit in the current economic climate may carry increased risk. Even where credit control procedures are strong there will inevitably be bad debts. As a supplier you must normally account for output VAT when the sale is initially made, even if the debt is never paid, so you risk being doubly out of pocket.

Curing the problem

VAT regulations do not permit the issue of a credit note to cancel output tax simply because the customer will not pay! Instead, where a customer does not pay, a claim to recover the VAT on the sale as bad debt relief can be made six months after the due date for payment of the invoice. For example, if a trader supplies and invoices goods on 19 October 2008 for payment by 18th November 2008 (ie a normal 30 day credit period), then the earliest opportunity for relief if the debt is not settled would be 18th May 2009. The relief would be included in the return into which this date fell, depending on the business' return cycle.

The amount of the claim

The taxpayer can claim relief for the output tax originally charged and paid over to HMRC, no matter whether the rate of VAT has subsequently changed. In the above example the standard VAT rate charged would have been 17.5% (not the current 15%) so a claim can be made for the full 17.5%. The claim is entered as additional input VAT - treating the uncollected VAT as an additional business expense - rather than by reducing output VAT on sales.

The customer

A customer is automatically required to repay any input VAT he has claimed on a debt remaining unpaid six months after the date of the supply (or the date on which payment is due if later). Mistakes in this area are so

common that visiting HMRC officers have developed a programme enabling them to review Sage accounting packages and to list purchase ledger balances over 6 months old for disallowance.

Preventing the problem?

If you are a small business you may be able to register under the cash accounting scheme, which means you will only have to account for VAT when payment is actually received. This can give your business a considerable cash flow advantage if your customers normally take a long time to pay, and will also give you automatic bad debt relief.

Flipping the coin

Where your business is registered under cash accounting, do remember that this also means that VAT cannot be claimed on purchases and other inputs until you have actually made the payment, rather than the normal method of accounting for the reclaim when you receive the invoice.

What is best for you will depend on the type of business you operate. Businesses which benefit most from the scheme are those which have relatively low taxable inputs, for example service companies. Retailers selling for cash do not generally benefit from the scheme, since they receive the cash for their sales at point of sale and often pay for goods on credit, so the normal method of reclaiming purchase VAT based on invoice not payment is VAT efficient already.

The same thing also applies to businesses whose sales are mostly zero-rated; there is no point in deferring the receipt of your repayment for inputs.

Please contact us if you would like any more information or assistance with these VAT aspects.