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Accountants and Business Advisers

TAX E-NEWS

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Welcome to our monthly tax newsletter designed to keep you informed of the latest tax issues.

We hope you enjoy reading the newsletter; remember, we are here to help you so please contact us if you need further information on any of the topics covered.

HMRC BUSINESS RECORDS CHECKS TO END...

HMRC have recently announced that they have wound down their business record checks and will no longer initiate new checks using this process. HMRC say that they "remain committed to helping businesses to keep better records". At the same time HMRC have updated their factsheet on compliance checks.

...BUT THEY CAN STILL VISIT BUSINESS PREMISES AS PART OF A COMPLIANCE CHECK

Although HMRC have announced that they have wound down their business record checks, they may still need to visit business premises as part of a compliance check.

HMRC occasionally make unannounced visits to business premises, however they will normally give you at least 7 days notice of such a visit. This can include your home address where the business is run from home. You can ask us to be there when HMRC visit, and we would strongly advise this. If you prefer we can request that HMRC look at your records at our offices or at HMRC premises.

HMRC do not usually need to talk to people who work for you about their checks but they may ask to speak to the people who keep your records up to date, such as payroll and finance records.

HMRC may also need to speak to some of the people who work for you if they are looking at their employment status and are trying to check whether or not they should be on your payroll.

TAX RELIEF UNDER THE ENTERPRISE INVESTMENT SCHEME (EIS)

The Enterprise Investment Scheme allows unconnected investors to obtain a 30% set off against their income tax liability up to £1,000,000 investment each tax year. So a £10,000 investment reduces the investor's income tax liability by £3,000. In addition, provided those shares are held for at least 3 years, the gain on disposal of those shares is tax free.

However, as illustrated in a recent tax case, the capital gains exemption is only available where the investor has made a claim for income tax relief. In Ames v HMRC (2015) the taxpayer, Mr Ames, invested £50,000 in a new company but unfortunately had very little income that year so did not claim EIS income tax relief. When he sold the shares several years later for £333,000, he found that the exemption did not apply and the gain was taxable!

Note that Seed EIS for small start-up companies provides 50% income tax relief and the same CGT exemption when the shares are sold.

The connected persons rule means that existing employees, paid directors and their associates are not entitled to these reliefs. Shareholders with more than 30% of the company's shares, together with their associates, are also excluded. "Associates" in this context includes spouses and linear ancestors/descendants but excludes siblings. For close families this opens up a number of planning opportunities.

Note that these exclusions do not apply where the investor is merely seeking to defer capital gains tax via their EIS investment.

The rules for EIS and Seed EIS are very complex so please get in touch with us to discuss the tax implications if you are considering making such an investment.

IS YOUR COMPANY CARRYING OUT RESEARCH AND DEVELOPMENT (R&D)?

The Government is concerned that many small businesses are not taking advantage of the generous tax breaks for undertaking R&D. Part of the reason for this is the perception that claiming is a difficult process. Whilst this perception is not entirely unwarranted, Beavis Morgan has the experience and expertise to cut through the procedural difficulties and we have made over 100 successful claims on behalf of our clients in the last 12 months across a very broad range of industries.

The other common misconception is that only businesses employing staff in lab coats will qualify. We can confirm that only a very small proportion of our claimants engage any people in lab coats; most claimants are creating innovative products or technology in much more mainstream commercial spaces.

These have almost exclusively been done on a fully contingent fee basis. Feel free to contact us if you wish to discuss this further.

PAYROLLING OF BENEFITS IN KIND

Legislation to require employers to report Benefits in Kind in real time as opposed to the end of year form P11D was included in the first Finance Act of 2015. However, there are concerns amongst accountants that this should not be mandatory until 2017/18 at the earliest, as many employers are only just getting to grips with real time processing of basic wages and salary data.
The new system will require employers to calculate the cash equivalent of the Benefit in Kind and effectively spread it over the tax year. The tax due on benefits will then be collected by adding a notional value to the employee's payroll, rather than reporting the Benefits in Kind separately on the end of year form P11D.
Please get in touch with us if you would like to use this system for 2016/17 as you will need to register with HMRC before 6 April 2016.

COLLECTION OF UNPAID TAX THROUGH YOUR TAX CODE

Remember that HM Revenue and Customs can collect tax debts by adjusting your Pay As You Earn (PAYE) tax code. HMRC refers to this as 'coding out'. The effect of this is to recover the tax debt from your pay or pension, by increasing the amount deducted during the tax year. This applies if you have a debt with HMRC and:

- are an employee paying tax through PAYE and/or
- receive a taxable UK-based private pension.

This facility is available if your annual earnings are £30,000 or more. To do this, HMRC apply a sliding scale to your main PAYE income. The maximum amount that can be coded out is £17,000 where your earnings exceed £90,000 a year. These changes will only apply to underpaid Self-Assessment and Class 2 National

Insurance debts and Tax Credit overpayments. Changes will then be reflected in your 2016/17 tax code.

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DRAFT FINANCE BILL 2016 CLAUSES ISSUED FOR CONSULTATION

Draft clauses for inclusion in Finance Bill 2016 were issued for consultation on 9 December 2015. The proposed legislation, if enacted, will introduce a number of measures consulted on during summer 2015 and announced on the Autumn Statement.

7.5% INCREASE IN INCOME TAX ON DIVIDENDS TO PROCEED

The legislation to introduce the new system of dividend taxation announced in the Summer Budget has now been included in the draft Finance Bill. Although individuals will be able to receive £5,000 of dividend income tax free each year from 2016/17, once that has been used up there will be a 7.5% increase in the rate of tax on dividends so you may wish to consider increasing your dividend payments before 6 April 2016.

LIQUIDATIONS AND OTHER CAPITAL PAYMENTS MAY BE SUBJECT TO INCOME TAX

One of the anti-avoidance measures announced in the Autumn Statement on 25 November was to introduce legislation to counter the distribution of income accumulated in a company to the shareholders in a capital form, potentially subject to the 10% capital gains tax rate with the benefit of entrepreneurs' relief. This is a much lower rate than the rate of income tax on dividend payments, particularly when the new higher dividend tax rates are introduced in 2016/17.

The anti-avoidance legislation is now included in the draft clauses to be included in Finance Bill 2016 and, if enacted, will apply from 6 April 2016. The proposed changes appear to go much further than we originally thought and potentially catch schemes of capital reduction and even certain situations where a company buys back shares from a shareholder. It is hoped that the changes will not apply to genuine commercial transactions.

If you are considering closing your company down and distributing the retained profits it may be advantageous to do so before 6 April 2016. If so, you should contact us as soon as possible so that the transaction can be completed before the new rules take effect.

EXEMPTION FOR TRIVIAL BENEFITS IN KIND

The Office of Tax Simplification has made a number of recommendations to the government to simplify the tax rules for reporting benefits in kind and expenses paid on behalf of directors and employees.

One recommendation was to replace a number of extra statutory concessions and legislate that trivial benefits in kind, where the cost to the employer is no more than £50, will not need to be reported in future and will be exempt from tax. HM Revenue and Customs raised concerns that some directors of family companies might abuse the new rules and have insisted that the exemption should be limited to £300 per annum in the case of directors and family members of such companies and this has now been included in the draft Finance Bill to be introduced from 6 April 2016.

The exemption is expected to cover the provision of small gifts to employees and former employees such as flowers on the occasion of a wedding or funeral and should not be in recognition of particular services performed by the employee in the course of their employment.

Please get in touch with us for further guidance on which benefits will qualify for this new exemption.

RENEWALS BASIS IS BACK FOR BUY TO LET LANDLORDS

Following the restriction of tax relief for mortgage interest and the 3% increase in Stamp Duty Land Tax all is not doom and gloom for buy to let landlords. Following on from the consultation this summer the draft Finance Bill 2016 includes the legislation to reintroduce tax relief for the replacement of furnishings in buy to let properties from 6 April 2016

This will apply to both furnished and unfurnished lettings and will mean that the cost of replacing items such as cookers and washing machines will again qualify for relief following the withdrawal of a concession from 6 April 2013.

Note that the alternative, and simpler, 10% wear and tear allowance will be withdrawn from 6 April 2016 for those letting properties fully furnished.

Those letting properties under the more stringent furnished holiday letting rules will continue to be able to claim the Annual Investment Allowance which provides 100% tax relief for the initial furnishing as well as renewal of furniture in holiday properties.

TAX DIARY OF MAIN EVENTS

Date	What's Due
1 January	Corporation tax for year to 31/3/15
19 January	PAYE & NIC deductions, and CIS return and tax, for month to 5/1/16 (due 22 January if you pay electronically)
31 January	Deadline to file 2015 SA tax return online
31 January	Income tax balancing payment for 2014/15, plus CGT for 2014/15
31 January	Income tax 1st payment on account for 2015/16
1 February	Corporation tax for year to 30/4/15