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SUMMER NEWS

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Plan to be strong and flexible

Confucius said; 'The green reed which bends in the wind is stronger than the mighty oak which breaks in a storm'. We can help your business be that green reed, which reacts quickly and flexibly to changing commercial conditions, and to new regulations.

We know the business environment will come under some pressure over the next few years. There will be challenges for businesses of all sizes if the UK does pull out of the European single market, as the free movement of goods and people between the UK and EU member states will no longer be guaranteed. Opportunities for those who export goods may expand, partly due to the weakened position of UK currency, but the nature of those external markets will certainly be different to what is currently on offer.

We are braced for another Budget later this year, in which the Chancellor will explain the new Government's vision for the future. This will certainly herald changes to the tax system, some of which may be back-dated. For example, a number of tax laws were put on ice when the General Election was called, and some of those laws could be reintroduced. However, more radical tax changes may follow as a result of trade-offs between the parties in a minority Government. Expect turbulence ahead.

Whatever the future holds, it is likely to involve a greater use of digital systems to communicate with your customers and with HMRC. If your accounting system would be recognised by your grandfather, we should talk about how you can prepare for the forthcoming digital revolution, which is known as Making Tax Digital. ●

Claim back SDLT

If you bought a house or flat after 1 April 2016, you may have paid a Stamp Duty Land Tax (SDLT) supplement of 3% on the entire value. This supplement is generally not due when you replace your main home, even if you end up owning more than one residential property after the purchase.

However, when you buy your new property before you sell your former main home, the SDLT supplement is initially payable. You can then reclaim the SDLT 3% supplement if the sale of your former home is completed within three years of your new purchase.

The SDLT can be reclaimed either online or by post using form SDLT16, which can be completed online and printed off. You will need the SDLT reference for the purchase.

The claim must be made by the later of: three months from the date of completion of the sale of the former home (i.e., the most recent transaction), or 12 months from the filing date of the SDLT return (30 days from the completion of the purchase). If this deadline is missed you will lose the opportunity to reclaim the SDLT supplement.

Where your new home is in Scotland, Land and Buildings Transaction Tax (LBTT) applies in place of SDLT. The 3% supplement still applies, but you only have 18 months in which to replace your main home.

From 1 April 2018 Wales will have its own version of SDLT, with different rates and thresholds. If you are looking to buy a property in Wales it may be best to complete the purchase before next April. ●

Public sector contracts

When you work as a contractor through your own personal company, you will be aware of the IR35 rules, which have been around since April 2000. If you contract for a Public Sector Body (PSB) you should be aware that the application of the IR35 rules has changed significantly since 6 April 2017.

For contracts in the public sector the decision as to whether the individual worker is within IR35 now lies with the end client – the PSB. This organisation is supposed to use an online employment status tool provided by HMRC to help it reach a conclusion on the worker's IR35 status, but most don't.

If the PSB decides that IR35 does apply, the fee-payer, who is normally the employment agency who arranged the contract, must deduct tax and NI from the amount invoiced by your company. No allowance is made for the 5% expenses normally permitted, or for any pension contributions your company may pay on your behalf.

If the PSB decides that you are outside IR35, the fee-payer can pay your company without deducting tax or NIC. However, the agency continues to be liable for PAYE and NIC due, should HMRC decide that the IR35 decision made by the PSB was incorrect.

To avoid difficulties, some public bodies are taking contractors on to their payrolls, which is what the Government wants them to do. However, most public bodies can't afford to pay the pension contributions and benefits that workers are entitled to, so will continue to engage contractors.

Before you agree to a new contract, check whether the end client is part of the public sector. This includes any organisation which is covered by the Freedom of Information Act, such as police, schools, NHS, local authorities and the BBC. Top-secret spying agencies: (GCHQ and MI5) are not covered. You may need to revise your fees to cover the tax deductions. ●

VAT payments and surcharges

If you don't pay all the VAT you owe on time, HMRC will eventually send you a surcharge calculated as a percentage of the unpaid VAT. This surcharge is not interest, and doesn't relate to the length of the delay for the payment, just the amount of unpaid VAT.

The surcharge increases each time the VAT for a quarter is late: from nil to 2%, 5%,10% and finally, 15%. There is a £400 minimum floor for the surcharge for the first three late payments, so you may not receive a bill until the penalty has reached 10% or 15%.

This system encourages businesses to pay the VAT due for later periods, for which the surcharge will be higher, in favour of VAT debts due for earlier periods. However, the HMRC computer wants to allocate any VAT paid on account to earlier periods, leaving the later period exposed to a higher surcharge.

If you are trying to pay your VAT as you go along to avoid surcharges, always specify which periods the payment should be set against. If you may not be able to pay the next amount of VAT in full, you need to come to a time to pay agreement with HMRC (call 0300 200 3835). This will avoid a surcharge being imposed, and gives you certainty as to the payment arrangements.

We can help you arrange a time to pay agreement. ●

Tax schemes that trap contractors

Individuals working on fixed-rate contracts are eager to reduce their costs, including tax deductions. They may be tempted to take part in tax schemes that promise to cut their tax bills. These are two tax schemes which are sold to contractors, which in reality save no tax at all.

Annuities

The worker agrees to receive a small salary with as little or no tax deducted. The rest of the money they receive is supposedly a capital payment from the scheme promotor, to acquire a deferred annuity. This annuity will be payable to the promoter of the scheme at a future date.

The worker has received a non-taxable capital payment in return for promising to pay an annuity at some date of the promotor's choosing. This is a version of the contractor's loan scheme, as the annuity is never actually paid by the worker to the scheme promotor. HMRC's view is that this scheme does not work.

Loyalty points

Workers are employed by an employment agency, which hires out their services to third parties. The workers are required to advertise their skills on a connected online jobs board.

The agency pays the workers a small wage with little or no tax deducted, and pays the majority of the fees earned to the owner of the online jobs board. The workers are awarded loyalty points for the time their advert remains on the jobs board. They can then exchange those loyalty points for cash, which is paid without tax or NIC deducted.

HMRC believe the exchange of loyalty points for cash is taxable income. What's more, the workers should be taxed on the full amount paid out by the agency, including the fee diverted to the promotor of the jobs board. Any employment agency using such a scheme may be liable for penalties for failing to deduct the correct amount of tax and NIC.

If you are offered similar schemes, remember HMRC will collect any tax apparently avoided, plus interest and penalties. ●

Buying off-plan is risky

When you purchase a new property off-plan, you may put down a deposit to reserve the property before it is finished, or even started.

The contract to purchase the property is normally not completed until the property is finished, and at that time the balance of the purchase price must be paid. If you can't pay the balance when requested, you lose the right to complete the contract and acquire the property. You will also lose your deposit.

In most cases you cannot set that loss against other capital gains you make. When you pay a deposit for an off-plan purchase you do not acquire an asset, so you have not disposed of an asset when the purchase fails to complete, so there is no capital loss.

If the contract you signed doesn't permit you to assign the right to buy the property, you don't have a contractual right. When that contract is broken, by you failing to pay an outstanding purchase price, your loss is ignored for tax purposes.

However, HMRC have the cards stacked in their favour when the taxpayer is a non-resident buying a residential property in the UK. In that case, the purchaser is treated as acquiring the property from the time he signs the off-plan contract, not from the completion of the deal to buy the property. ●

Making Tax Digital

Making Tax Digital (MTD) is a project to transform the UK tax system so that accounting data flows into HMRC digitally and at least quarterly. The General Election has created a temporary pause in MTD, but it is clear that the project will continue, whatever the result of the election, as HMRC has invested too much in MTD to scrap it.

Individuals with total business or rental income of less than £10,000 per year won't have to make periodic reports under MTD. Most other businesses and landlords will have to use accounting software to submit details of income and expenses to HMRC, and make a final return of all other income. We will be able to do this for you.

If your unincorporated business turnover is larger than £10,000 but less than £85,000 per year, you will be required to start quarterly reporting under MTD in 2019/20. Most other unincorporated businesses will commence MTD reporting in 2018/19, and companies will start MTD reporting in 2020/21. Large partnerships with turnover of £10 million or more will also join MTD in 2020/21.

These commencement dates are not set in stone, and the MTD timetable could

be revised after the election. This would be welcomed, as the software companies need more time to produce accounting software to suit the needs of all types of taxpayer, and at various prices. HMRC has promised that free software will be available to the smallest unincorporated businesses, who have no employees, and who are not VAT registered.

You may also need some time to review your own accounting records. If your business income and receipts are mixed up with your personal expenses in one bank account, reporting under MTD will be very difficult. Let's talk about the small changes which could make recording your expenses much easier. ●

Tax changes that didn't happen

The snap General Election curtailed the Parliamentary time available to pass new laws. As a result, a number of tax changes which were expected to come into effect on 1 April or 6 April 2017 did not become law, including:

New allowances

Two new allowances of £1,000 each were to apply from 6 April 2017. These would allow taxpayers to earn small amounts from let property or trading and not report that income on a tax return. You need to keep records of all the income you receive and the related expenses, however small.

Cash Basis

Individual landlords were due to apply a simplified form of accounting called the cash basis. This was to apply from 6 April 2017 where gross rents were no more than £150,000. The transactions recorded since that date are unlikely to cause many problems, but be careful to record the date of all receipts and expenses relating to your lettings business.

Non-domiciled individuals

Individuals who are not domiciled in the UK were to be subject to a new deemed-domiciled regime from 6 April 2017. If you are affected, you may have sold assets around that date to prepare for the new regime, and have realised a capital gain unnecessarily. If you took advantage of the rules to cleanse foreign bank accounts, you may have moved money into the UK, which you thought was not taxable. These funds may now be taxable, so we need to discuss your tax position.

Pensions

If you have already drawn taxable benefits from your money-purchase pension scheme, your subsequent pension contributions are capped by the Money Purchase Annual Allowance (MPAA). There is now uncertainty about how much pension contributions you can make in 2017/18 as MPAA was to reduce from £10,000 to £4,000, but it didn't.

Capital allowances

Businesses that installed new electric vehicle charging points after 23 November 2016 expected to receive 100% capital allowance on that expenditure. That allowance is not available.

The new Government may reintroduce some or all of the above tax changes, but not necessarily from the same dates. ●

Political donations

In the last few weeks all the political parties have been clamouring for funds. If you make a personal donation to a political party, that has no tax implications. It comes out of your taxed income and doesn't qualify for tax relief as it is not a charitable gift.

What if your personal company makes the political donation? This is permitted, and it saves you having to extract the funds from the company in order to make the donation. The company's donation doesn't create a taxable benefit in kind for you as the director or shareholder of the company. However, it is not tax deductible for the company.

Where the political donation exceeds £500 it will have to be separately reported by the recipient party, which may attract adverse publicity. All political donations made by the same source must be aggregated within a calendar year, so the £500 threshold can't be avoided by making several smaller donations spread over the year.

Where your company pays for, or contributes to, a campaign which is wholly relevant to its trade, the expense may be tax deductible. For example, donations made to a collective publicity scheme organised by the local town council would be tax deductible. ●

VAT and contracts with three parties

VAT can often get very complicated when there are three parties involved in a transaction. To clarify who must account for what VAT, it is essential to identify who is the principal, who is the agent and who is the customer.

Identifying the customer is normally the easy part, as that is the person who receives the goods or services. However, that can be confused when an agent, perhaps a bank, orders services to be provided on behalf of its customer, which the customer pays for.

When identifying the principal, ask: who does the customer think he is dealing with? A clue is to determine who the customer would complain to if he had a problem with the goods or services he had purchased. Also look at what the written trading conditions and terms of engagement say, if they exist at all.

If there is a contradiction between the commercial reality of a transaction and what the contracts say, HMRC's approach is that the commercial reality must take priority. It is always important to consider VAT issues at the planning stage of a big deal, rather than when the money is paid. ●

Simple assessments

When your state pension is larger than your personal allowance, you will have a small amount of tax to pay for the year.

To collect this tax HMRC need to ask you to complete a tax return, and 'self-assess' the tax due. This appears to be an unnecessary exercise, as HMRC should already know the level of your state pension. It is also pretty stressful.

Now HMRC has the power to assess small amounts of tax due, using a procedure called 'simple assessment'.

HMRC have started to issue simple assessments (tax demands) to pensioners who have a small tax liability in respect of their state pension, and who had no other income in 2016/17. If this is your tax position, look out for a letter from HMRC containing a tax computation.

You may have already received a letter in April asking you to complete a tax return for the year to 5 April 2017. You should wait until June, to see if you receive a second letter from HMRC which tells you not to complete the tax return after all.

If you have any doubts about a letter or communication from HMRC please forward it to us. HMRC will not ring you to demand tax, or send you emails; those forms of communication are likely to be from scammers trying to steal your bank details. ●

VAT and second-hand goods

If your business deals in second-hand goods, it can use a concession that significantly reduces your VAT payments compared to normal VAT accounting. Using this concession you account for the VAT on its profit margin on the second-hand goods, rather than on the full sales value.

The record-keeping requirements for using this concession are very strict, and you must distinguish between the goods which have had some prior use before you acquired them, and are thus treated as second-hand, and goods which are acquired new and unused. Young animals can't be regarded as second-hand goods, where they are bought directly from the breeder.

Where your business buys second-hand goods for £500 or less, VAT can be accounted for using the global accounting scheme. This allows VAT to be paid on total sales less total purchases of all goods in a VAT period, rather than on an item by item basis.

This method of accounting allows losses made on some items to be automatically offset against profits made on other sales. If the global accounting scheme is not used, no VAT is payable on items sold at a loss, but the loss cannot be offset against profits on other sales. ●

VAT partial exemption

A business that has some income which is exempt from VAT, but also makes sales that are subject to VAT, is referred to as 'partly exempt'.

Input VAT on purchases can only be recovered if it relates to 'VATable' sales made by the business, i.e., those which carry VAT at 20%, 5% or 0%. If the input VAT relates to a range of sales, some of which are exempt and some of which carry VAT, an apportionment is needed.

The partly exempt businesses must allocate its purchase invoices into three categories depending on the purpose of the expense:

- T - the expense wholly relates to VATable sales and VAT can be fully reclaimed.
- E - the expense wholly relates to exempt sales, so no input VAT can be claimed.
- R - a cost that relates to either both parts of the business (mixed use) or to general overheads, e.g., accountancy fees.

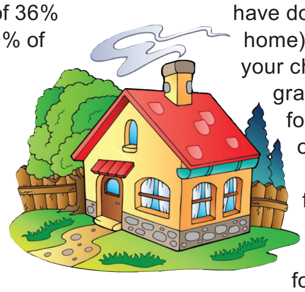
The challenge when allocating purchase invoices to T or E is to establish a 'direct and immediate link' between the expense and either VATable or exempt sales (or both). If there is no such link, the purchase must be allocated to R.

The input VAT claimed for the quarter will be all of T plus a percentage of R, based on the ratio of VATable sales to total sales including exempt income. However, you can agree a special method with HMRC for calculating the VAT to recover, if this would suit you.

Small businesses may be able to recover all input VAT, even where it relates to exempt sales. ●

Inheritance tax nil rate band

After your death your relatives will have to pay Inheritance Tax (IHT) at 40%, if the net value of your assets exceeds £325,000. A discounted rate of 36% applies if you leave at least 10% of your net estate to charity.



Where you leave the value of your home to a direct descendant, an extra IHT nil rate band of £100,000 applies, increasing the total nil rate band to £425,000. The home-related nil rate band increases by £25,000 each year until it reaches £175,000 from April 2020. Those who die after 5 April 2020 could have an IHT-free band worth £500,000, which may be doubled for a married couple or civil partners.

However, the home-related nil rate band can only apply where your home, or value derived from your home (if you have down-sized or moved to a care-home), is left to one or more of: your children, grandchildren, great-grandchildren, step-children, foster children, or the spouse of one of those individuals.

Large estates won't benefit from the full value of the home-related nil rate band, as it is tapered away by £1 for every £2 of the estate value which exceeds £2 million. The rules are extremely complicated, so we should discuss how your Will should be drafted to ensure that the maximum relief from IHT is obtained. ●

Pension scheme withdrawals

Pension scheme rules are complicated, and they are constantly changing. It is essential that you take advice from a qualified independent financial adviser before drawing funds from your pension scheme, or using those funds to invest in business assets.

Before you sign any deals, check whether your financial adviser is registered with the Financial Conduct Authority, and ask about their professional qualifications.

If the strict rules are not adhered to when your pension scheme lends money to a company that you control, the loan will be treated as a payment to you personally. This will amount to an unauthorised payment from the pension fund and attract a surcharge of 55%.

Such loans can be made, but they must be from a Small Self-Administered Scheme (SASS), and used only for specific purposes by the business. This includes investing in real property, such as a building, but buying moveable equipment is not an approved purpose.

Be cautious in your assumptions about moveable items. The directors of one company believed that the printing presses they sold to their pension fund were fixed assets as the lightest weighed around 4 tonnes, and they could not be moved easily. The plan was for the pension fund to lease the machines back to the company.

However, the tax tribunal decided that the printing presses were moveable assets as it was possible to move them. The sale and lease-back transaction triggered an unauthorised payment surcharge and a sanction charge for the pension scheme. ●