Green&Co

CHARTERED CERTIFIED ACCOUNTANTS
AND REGISTERED AUDITORS

POWER BEHIND YOUR BUSINESS

Autumn 2014

Newsletter

Tax advantages for innovative companies

New and innovative products which will change how we conduct our lives are being thought up, it can seem, every day. It is products like these which keep the majority of businesses profitable, and play an extremely important part in maintaining an already fragile economy in the UK.

HM Revenue & Customs tries to incentivise companies to conduct more research and development into advances in fields such as science or technology, where there is a scientific or technological uncertainty, by offering Research and Development (R&D) Relief. R&D Relief enables qualifying companies to reduce their Corporation Tax liability, or, in some circumstances, to receive a tax credit instead, by way of a cash sum paid by HMRC.

R&D Relief Schemes – A company or organisation can only reclaim R&D Relief if it is liable to corporation tax. For small to medium-sized enterprises, the scheme for claiming relief is: The Small or Medium-sized Enterprise (SME) Scheme

SME Scheme – How much R&D Relief can you claim? – The tax relief allowable on R&D costs is 225%. This means that for every £100 of qualifying costs, you could reduce your Corporation Tax profits by an additional £125 on top of the £100 spent.

What if I make losses? – If your company makes a loss for the period, this can be increased by the additional R&D Relief (an additional 125% of the costs for SME Scheme). You then choose to either carry forward the losses to offset against future profits, or convert it to tax credits.

R&D Tax Credits – George Osborne recently delivered promising news in this year's budget for SMEs claiming R&D relief in the 2014/15 tax year. As of April 2014, companies claiming R&D tax credits under the SME Scheme will benefit from an increase in the rate to 14.5% compared with 11% in the last tax year.

Am I Eligible? – Companies in many sectors are eligible for R&D Relief. We are a proactive firm of accountants who can, and have, helped many businesses in identifying eligible criteria for successful R&D claims. If you are thinking of innovative ways to stay competitive in your sector, then you may benefit from speaking with us.

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The British Accountancy AWARDS 2013 FINALIST Independent Firm of the Year

Tax relief on your travel expenses

Virtually everyone who is self-employed incurs travel costs, but it may sometimes be hard to decide whether these expenses are allowable for tax.

Unfortunately, there is no detailed guidance from HM Revenue and Customs (HMRC) about such travel expenses, and instead we have to look at what the courts have decided. The latest decision does little to help matters.

The cost of a self-employed person travelling from home to their place of work is not normally allowed as an expense, and it makes no difference if they keep their business records, materials, tools etc at home. In the case of *Newsom v Robertson* (1952), a barrister worked part-time at home when the courts were sitting and full-time when they were not. Travel between home and his chambers was disallowed on the basis that the chambers were the base of operations. And because travel costs are disallowed, so are incidental costs such as car parking and congestion charges. However, travel costs to and from home are allowed when home is your base of operations, and you travel to a number of different temporary work locations. In the case of *Horton v Young* (1971), a self-employed bricklayer was successful in claiming travel costs between home and various temporary building sites.

The essential point is that the nature of the trade or profession must be itinerant and there should be no predictability about the place of work.

The upper-tier tribunal decision in the recent case of *Doctor Samadian v HMRC* (2014) reinforced the above principle. The doctor was employed full-time at two NHS hospitals, and he was also in self-employed private practice working from an office at home. He saw his private patients at consulting rooms that he hired at two private hospitals, and also visited patients in their homes. HMRC did not dispute the deductibility of travel between the two private hospitals, between the private hospitals and a patient's home, and between home and a patient's home.

The dispute concerned travel between the doctor's home and the private hospitals, and also between the NHS and the private hospitals,

and in both cases the decision was in HMRC's favour. Although home and the private hospitals were all places of work, the doctor was not considered to be itinerant, and his attendance at the private hospitals was regular and predictable. The decision means that a deduction for the cost of travel to another place of business will only be allowed in very exceptional circumstances.

It used to be the case that a tax avoidance scheme could provide a cash flow advantage because payment of disputed tax was postponed until the case was resolved. However, this advantage was removed when the Finance Act 2014 received Royal Assent on 17 July. Users of schemes covered by the DOTAS (disclosure of tax avoidance schemes) rules or counteracted under the GAAR (general anti-abuse rule) will have to make an upfront payment of any disputed tax. There is no change to the tax liability itself, but the removal of the cash flow advantage will further reduce the incentive to use such schemes.

TAX CALENDAR

Every month

1 Annual corporation tax due for companies with a year ending nine months and a day earlier, e.g. tax due 1 July 2014 for year ending 30 September 2013.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

30/31 Submit CT600 for year ending 12 months previously. Last day to amend CT600 for year ending 24 months previously.

File accounts with Companies House for private companies with year ending nine months previously and for public companies with year ending six months previously.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

OCTOBER 2014

1 National minimum wage rates go up (£6.50 per hour for 21 and over).

14 Due date for CT61 return for quarter to 30 September 2014.

31 Deadline for 2013/14 self-assessment return if filed on paper.

NOVEMBER 2014

2 Submit employer forms P46 (car) for quarter to 5 October 2014.

DECEMBER 2014

30 Last day to submit 2013/14 tax return online to have unpaid tax of under £3,000 collected through the 2015/16 PAYE code.

JANUARY 2015

14 Due date for CT61 return for quarter to 31 December 2014.

31 Submit 2013/14 self-assessment return online.

Pay balance of 2013/14 income tax and CGT plus first payment on account for 2014/15.

FEBRUARY 2015

1 Initial £100 penalty imposed where the 2013/14 return has not been filed or has been filed on paper after 31 October 2014. Further £300 penalty or 5% of the tax due if higher where the 2012/13 return has not yet been filed.

2 Submit employer forms P46 (car) for quarter to 5 January 2015.

3 Third 5% penalty imposed on tax still unpaid for 2012/13.

MARCH 2015

2 Last day to pay 2013/14 tax to avoid automatic 5% penalty.

Dealing with workplace disputes

Employees who intend to take a grievance to an employment tribunal must now first notify the Advisory, Conciliation and Arbitration Service (Acas) in most cases.

The idea is that pre-claim conciliation will reduce the number of workplace disputes ending up in court. Early conciliation started by the employee effectively stops the clock on the time limit for presenting a claim to an employment tribunal. The conciliator has one month to achieve a settlement, although discussions can be extended for a further 14 days where there is a prospect of settlement.

Early conciliation is free. It can avoid the costs of going to a tribunal, and may be a very quick solution. If conciliation fails, discussions are confidential and cannot be used in subsequent proceedings.

If a grievance ends up being decided by an employment tribunal, the employer will normally have to pay their own costs, even if they win. However, the tribunal can order an unreasonable claimant to pay the costs, and there have been some recent decisions on this issue – with mixed results for employers.

In *Kapoor v The Governing Body of Barnhill Community High School*, the employee was found to have lied to a tribunal in pursuing a discrimination claim, but this did not automatically constitute unreasonable behaviour. The employee's appeal against the costs award therefore succeeded.

Tribunal fees to lodge a claim or an appeal were introduced in July 2013, and employers normally have to reimburse these fees where decisions go against them. In *Portnykh v Nomura International plc*, the employer had to reimburse fees even though the appeal was only broadly successful and the employee lost on a few minor points.

This case also provided some useful guidance on the application of the 'without prejudice' rule. The basic principle is that a 'without prejudice' conversation undertaken with the intention of resolving an employment dispute is inadmissible in any subsequent proceedings. Nomura tried to have the conversations with the employee admitted as evidence by arguing that there was no dispute at the time when they took place. This argument was rejected because Nomura had already announced their intention to dismiss the employee for misconduct.

Proposals for trusts affects tax planning now

If you are planning to set up a trust, add funds to an existing trust or have a will that establishes a trust on death, then proposed changes by HM Revenue & Customs (HMRC) to the inheritance tax (IHT) treatment of trusts mean you might have to rethink your planning.

The changes affect the way that IHT applies to most trusts (also called settlements) with some limited exceptions. Trust assets are subject to an IHT charge every 10 years, and there can also be an exit charge when capital is paid out to the trust beneficiaries. The calculation of these charges is quite complicated, and the changes are partly designed to simplify this.

HMRC is also concerned about the ability of individuals to set up multiple trusts during their lifetime, with each trust then benefiting from a nil-rate band of £325,000. Establishing a new trust every seven years is a straightforward way of achieving this. If the process is started at an early age, such a strategy of making a gift into a trust of £325,000 every seven years could remove a substantial amount of assets from a person's estate.

HMRC's proposal is that each individual will have only one nil-rate band for trusts or settlements during their lifetime. This will be entirely separate from their personal nil-rate band, although it will be the same £325,000 amount. The settlor will be responsible for making an election that sets out how they wish to allocate their settlement nil-rate band between the trusts that they have set up. For trusts created on death, the election will be made by the personal representatives.

The new rules will apply after 6 April 2015, but they will only affect new trusts that have been created after 6 June 2014 – the publication date of HMRC's consultation document about the taxation of trusts. The rules will also apply where property or funds are added to an existing trust. Existing trusts made by 6 June 2014 will retain the nil-rate band available to them under the previous rules, but they will benefit from the new simplified way in which charges are calculated.

The changes are not definite – just a consultation, as things stand – but the proposals seem very likely to be included in next year's Finance Act.

We are here to help should you require advice.

Most people are astute enough to ignore dubious emails purporting to be from their bank and asking for details of their account. Bogus HMRC emails offering a tax refund, however, can catch some people out – particularly if they are actually due a refund.

The aim of such 'phishing' emails is to obtain bank account or credit card information, and HMRC have warned of a recent surge in their use. Be particularly careful of links to what looks like the homepage of HMRC's website, and of course do not download any attachments. Remember - HMRC only contacts customers who are due a tax refund by post, never via email.

Pensions – is now the time to make contributions?

Should you put more into your pension scheme? Everyone with earnings should revisit this question following this year's Budget proposals for greater flexibility in accessing pension savings. The main changes are due from April 2015 but there have also been important relaxations this tax year.

From April 2015, it will still be possible to take 25% of your pension fund tax-free from the age of 55, but under the proposed new rules, the aim is that you should then have broadly unrestricted access to the rest of your accumulated pension funds. It will still be possible to buy an annuity to secure a guaranteed lifetime income and this might well continue to be the best solution for many people. But it will become easier and generally less expensive to use other approaches.

The income you can draw is subject to income tax – but not national insurance contributions. So drawing excessive amounts from a pension fund could generate unnecessarily large tax liabilities which it might be possible to avoid, or reduce, by taking withdrawals spread over several years.

While investments remain in a pension fund, you can buy and sell them and accumulate income without paying any UK tax. It is only when you draw them out that you pay income tax on them. So it will generally make sense to only take income from the pension when it is needed for expenditure, or possibly for some individuals, in years of unusually low taxable income.

The increased attractiveness of pension investment has arrived just after a reduction to the effective limits on how much you can contribute. The maximum tax-efficient annual pension investment for an individual is now £40,000 (previously £50,000) and the lifetime allowance is £1.25 million, down from £1.5 million before 6 April 2014.

Your pension planning should also take into account the possibility of further changes. A new Government might limit tax relief on pension contributions to the 20% basic rate or perhaps a 30% flat rate for all – proposals that have often been aired recently – and further reduce the lifetime and annual allowances.

All this makes 2014/15 a good year to consider maximising your pension contributions, if your savings have not exceeded the lifetime allowance. You can generally bring forward your unused annual allowances from the previous three years.

Tougher lending rules for mortgage borrowers

New mortgage lending rules have recently been introduced by the Financial Conduct Authority (FCA). As a result, you may now face tougher checks whether you are buying a new home or remortgaging. Buy-to-let mortgages, however, are generally unaffected.

The development of the mortgage market review has been a lengthy process. It started with a discussion paper in 2009, and the FCA finally introduced the rules with effect from 26 April this year.

The new rules require lenders to verify your income in all cases, rendering self-certified mortgages a thing of the past. The lender will also have to take account of your committed and basic household expenditure to ensure that you can afford the mortgage repayments.

Previously, lenders generally used income multiples to establish the maximum loan they were prepared to advance, but this is no longer the key criterion. As well as making sure you have enough disposable income to repay the mortgage at current interest rates, lenders also have to consider the impact on repayments of possible future interest rate rises over the next five years and whether borrowers will still be able to afford them. Although interest-only mortgages are still permitted, there must be a credible strategy for repaying the capital – the intended future sale of the property is unlikely to be a satisfactory approach.

It may take some time for things to settle down, with even the FCA criticising lenders for an over-zealous application of what are its own new mortgage lending rules. Please get in touch with us if you need help.