TAX NEWS

Monthly Update July 2014

Dear Client,

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.

Best wishes

Tyrrell & Company

HMRC DON'T LIKE PARTNERSHIPS WITH CORPORATE MEMBERS

Last summer a consultation document was published setting the proposed counteraction by HMRC of artificial profit and loss allocation schemes involving partnerships and LLPs where some of the members are chargeable to income tax but others not. The measures were clearly intended to catch the situation where excessive profits are allocated to members who are limited companies where those profits would be taxed at a much lower rate than that payable by individual members. Individuals potentially pay tax on their share of profits up to 45% (plus 2% class 4 NICs) whereas company profits are taxed at 21%, and can be as low as only 20%.

Legislation in the latest Finance Bill will enact the changes which apply with effect from 6 April 2014. The legislation determines the maximum profit share allocated to non-individuals (in the main corporate members) and requires the excess profit share to be reallocated to individual members. The anti-avoidance however only applies where there is a connection between the individual and the non-individual (corporate) member. The amount of profit allocated to the corporate member in future will be limited to a reward for services provided, if any, plus a return on its capital at a commercial rate of interest (not a lot).

NO AIA ON PLANT AND MACHINERY BOUGHT BY MIXED PARTNERSHIPS

Although there is currently a generous £500,000 Annual Investment Allowance (AIA) for businesses investing in plant and machinery this has never been available to partnerships or LLPs with corporate members. Consider the corporate member purchasing such equipment to qualify for AIA – it will also help to justify a larger share of profit being allocated to the corporate member going forward.

LLPS MEMBERS MAY NEED TO GO ON THE PAYROLL

Yet another attack on the use of LLPs concerns the employment status of certain members. Up until 6 April 2014 a member of a LLP was always treated as self-employed for tax purposes, however some members may now be treated as employees.

This proposal was also consulted on last summer but legislation in the latest Finance Bill goes much further than what was originally proposed. Where the following conditions are satisfied the member is now treated as an employee:

A) His or her profit share is essentially fixed or less than 20% is based on the profitability of the LLP as a whole

B) He or she does not have a significant influence over the running of the LLP

C) His or her capital contribution is less than 25% of the "disguised remuneration".

Condition A could catch a member whose profit share is based on his personal performance or the profits of a department or office, not the firm as a whole. Condition B may catch members of larger LLP's where the firm is effectively run by a separate management committee.

If the member is caught by Conditions A and B and is being allocated a profit share of £100,000 then they would need to contribute at least £25,000 in members capital and long term loans to the LLP otherwise they would need to go on the payroll.

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WAIVER OF DIVIDENDS IN FAVOUR OF WIFE CAN BE TAXED ON THE HUSBAND

A recent case before the Tax Tribunal reminds us that where the right to dividends is waived this can create a “settlement” for income tax purposes such that some or all of the dividend waived may be taxed on the person waiving his right to the dividend. Mr Donovan and Mr McLaren each owned 40% of the shares in their company, with their wives owning 10% each. In year ended 31 March 2010 as the result of waivers by the husbands dividends of about £33,000 were paid to all four shareholders. The judge agreed with HMRC that a proportion of the dividends paid to the wives should be taxed on their husbands and that the exemption for inter spouse transfers tested in the case of Jones v Garnett (Arctic Systems Ltd) did not apply. An important consideration here is whether or not there are sufficient reserves to pay the full amount of dividend on all shares. This is a complex area and we can advise you on the correct procedure to follow to prevent an HMRC attack.

100% TAX RELIEF FOR A PORSCHE!

It’s not all doom and gloom this month! As you may be aware motor cars used in a business that emit no more than 95g CO_2 per kilometre qualify for a 100% capital allowance. This threshold reduced from 110g back in April 2013 and there are now fewer cars that qualify for this generous tax relief.

However, if your business can afford one, the new Porsche Panamera S E-Hybrid with CO_2 emissions of just 71g/km does qualify! The car has a top speed of 167 mph, develops 328 bhp with its 2.3 litre V6 petrol engine and a decent 95 bhp with its electric motor. List price? £88,967, however the Road Tax (Vehicle Excise Duty) is £0.

The 100% write off is available where the car is used by directors or employees but for sole traders and partners the relief is restricted by any private use proportion.

RELAXATION IN PLANNING LAW MAY IMPACT ON IHT RELIEF FOR FARMERS

Recent relaxations in planning rules mean that, where the necessary conditions are met, farm buildings may be converted into up to 3 residential dwellings without obtaining the normal planning permissions. This relaxation of the rules will make developments easier and is likely to increase the value of some farms. However not all of the value will necessarily qualify for Inheritance Tax Agricultural Property Relief - check out the tax implications of your proposed plans with us.

TAX DIARY OF MAIN EVENTS FOR JULY / AUGUST 2014

Date	What’s Due?
1 July	Corporation tax for year to 30/9/13
6 July	Forms P11D and P11D(b) for 2013/14 tax year, and where appropriate form P9D
19 July	PAYE & NIC deductions, and CIS return and tax, for month to 5/6/14 (due 22 July if you pay electronically); payment of Class 1A NICs for 2013/14 (22 July if you pay electronically)
1 August	Corporation tax for year to 30/10/13
19 August	PAYE & NIC deductions, and CIS return and tax, for month to 5/7/14 (due 22 August if you pay electronically)

Please contact a member of our Team if you would like to discuss any of the issues raised.