TAX E-NEWS

November Monthly Update

NOVEMBER 2010

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 and remember, we are here to help you so please contact us if you need further information on any of the topics covered.

Best wishes

Joanna Price FCCA

CAPITAL ALLOWANCES ON PLANT AND MACHINERY

Whilst the current annual investment allowance of £100,000 (applying from 1 April 2010) may not be reached in your business, when this reduces dramatically to £25,000 from 1 April 2012 the position could be a lot different.

We will be pleased to advise on timing issues for future capital expenditure plans, and where the £25,000 limit for a 100% tax write-off is likely to be reached we will look at the separate 100% first year allowances regime covering unlimited expenditure on investment in energy-saving plant or machinery and investment in designated plant or machinery to reduce water use and improve water quality

CGT ON SALE OF YOUR BUSINESS

The dramatic increase in the level of entrepreneurs' relief (now a £5 million lifetime limit) whereby tax is at 10%, plus the fact that if you do not qualify for the relief you will now pay CGT at 28%, means that is has never been so important to protect your entitlement to the relief on a business sale.

Essentially you could sell your business and receive the proceeds in one of several ways:

- Cash of a fixed amount
- Cash plus the right to receive more if profit targets are met (= earn-out arrangement)
- Shares in the purchasing company
- Loan notes in the purchasing company

There may also be a combination offered from the above, but whatever may be on the table it is vital that the sale is structured from your viewpoint to get the best tax treatment as that can vary significantly. Not that tax should be the prime motivation as you should never let the tax tail wag the commercial dog.

There are several ways of ensuring that the complete package on a sale of your business qualifies you for entrepreneurs' relief and we are ready to advise by reference to your particular circumstances.

YET ANOTHER FINANCE ACT!

The third Finance Bill of 2010 was published on 30 September and is set to become the Finance (No. 3) Act 2010 – something which has rarely if ever happened before. But no need to fret as it only covers issues which for one reason or another did not get into either of the previous two Bills!

Perhaps the only point worth bringing to your attention is that, as already known would happen, the legislation allows for a 100% tax write-off on purchasing a business van with zero-emissions and that has been backdated to 1 April 2010.

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HMRC TOOLKITS

It is not just taxpayers that HMRC likes to refer to as "customers". We as tax agents also come into that category and as a result we do occasionally receive what they perceive as help in meeting our obligations when acting for you.

As an example HMRC publish an ever-growing set of toolkits on various tax topics which aim to highlight common errors found by HMRC in a variety of taxpayer circumstances. They are aimed at tax agents but anyone can download them from HMRC's website. Most of the common errors pointed out in the toolkits are obvious and we do not expect them to cause any problems. Nevertheless we will try and use them to your advantage. Specifically, HMRC state that the toolkits should help us to demonstrate that on behalf of the client we have taken reasonable care in completing a tax return, which may be an extremely useful form of protection.

Consequently we will be ready to show that we have used a toolkit where we consider that will provide comfort to HMRC.

The toolkits published or soon to be published cover the following topics:

- Personal and private expenditure (Sole Trader/Partnerships)
- CGT for Trusts and Estates
- Marginal Small Companies Relief
- Capital Allowances for Plant and Machinery
- CGT for Land and Buildings
- Trusts and Estates
- Capital v Revenue
- Losses
- VAT input tax
- Directors' Loan Accounts
- IHT
- Expenses and Benefits from Employment

THE GOVERNMENT'S ATTACK ON TAX EVASION

They have announced further funding for measures which involve a more robust criminal deterrent against tax evasion, experts on large businesses, investigators for offshore evasion, cyber-crime teams, further registration checks, debt collection agencies and freight and detection technology to prevent alcohol and tobacco smuggling.

The Treasury reckon this will bring in around £7 billion per annum by 2014/15 in additional tax revenues. That seems over-optimistic even though they plan to spend £900 million on increasing criminal prosecutions fivefold plus a further crackdown on offshore evasion, with the creation of a new dedicated team of investigators.

As a separate issue, HMRC are reported as having sent hundreds of letters to high net worth taxpayers who are clients of HSBC's Swiss bank. A former employee of the bank stole client information from the bank and passed it to the French tax authorities, who have passed it to HMRC who now say that the data shows that the taxpayers in question have undeclared sources of income and gains. The only advice we can really give as professional advisers is that any taxpayer with undisclosed liabilities should act promptly to come forward and we will make sure that the tax, interest and penalties are kept to the minimum.

It is quite conceivable that the total tax, interest and penalties due as a result of this procedure could exceed the amount in the offshore account! Our role is to present the facts in the best light and negotiate an acceptable settlement.

Please contact us if you would like to discuss any of the issues raised.

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