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LG News

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Dividend allowance

Many family-owned companies allocate dividends towards the end of their financial year and/or the tax year, which means that the impact of the reduction in the dividend allowance from £5,000 to £2,000 from 6 April 2018 is only now starting to come to light. Many other taxpayers may not become aware of the change until they complete their 2018/19 tax return, which in most cases, will be due for submission to HMRC by 31 January 2020.

The amount of tax payable on a dividend will primarily depend on which tax band the first £2,000 falls in. The tax rates on dividend income, above the allowance, remain at 7.5% for basic rate taxpayers, 32.5% for higher rate taxpayers and 38.1% for additional rate taxpayers.

For a basic rate taxpayer, the reduction in the allowance means an increase in tax paid on dividends of £225. For a higher rate taxpayer, the reduction increases the annual tax bill on dividends by £975, and for additional rate taxpayers, the increase is £1,143. Note that if dividend income falls between multiple tax bands, these figures will be different.

The allocation of various rate bands and tax rates can be complicated, even in situations where straight-forward dividend payments are made. Family business structures may be particularly vulnerable to the impact of the reduction in the dividend allowance, especially where multiple family members take dividends from the family company.

HMRC consultation on Partial Exemption and Capital Goods Scheme

At Spring Statement 2019, the government announced that it would launch a call for evidence exploring ways to improve the operation of Partial Exemption (PE) and the Capital Goods Scheme (CGS), following the findings of the 2017 Office of Tax Simplification (OTS) VAT review.

HMRC have now published the consultation document covering both subjects. These are two areas of VAT which can involve a significant amount of administration for businesses, with complex calculations often being required for some businesses to determine the amount of input tax that they are entitled to recover.

The call for evidence is split into three sections:

- the first section looks at the process for applying Partial Exemption Special Methods (PESMs) and the possible ways in which this might be improved to reduce burdens for taxpayers and HMRC alike;

- the second section explores how the current PE de minimis limit could be changed to aid simplification; and

- the third section considers possible policy solutions to issues caused by the CGS.

The consultation will run until 26 September 2019, with further announcements on proposals for future changes expected in time for the Autumn 2019 Budget.

Inside this issue:

For further information including a free demo please call Alison Grocott on 01270 624445 or email alisongrocott @lyongriffiths.co.uk

The significance of being a company director is that an annual earnings period must be applied for NIC purposes.

The correct way with directors' NICs

In certain situations the non-cumulative nature for calculating employee Class 1 National Insurance Contributions (NICs) makes it possible to manipulate earnings to reduce the overall amount payable by taking advantage of the lower rate of primary Class 1 contributions payable once the upper earnings limit has been reached.

This means that that an employee who is paid £2,000 each month of the year will pay considerably more in primary contributions than someone who is paid £600 for 11 months and £23,400 for one month, even though their total earnings for the year are the same.

Company directors often have greater scope to influence the amount and timing of payments, so to prevent manipulation of the rules, special provisions apply to all directors for NIC calculation purposes. Broadly, directors' NICs are calculated on a cumulative annual basis. This applies even where they are paid, say, monthly or leave the company during the year.

The only exception to this rule is where a director is first appointed during the course of a tax year. Where this is the case, the earnings period is the period from the date of appointment to the end of the tax year, measured in weeks. The calculation of the earnings period includes the tax week of appointment, plus all remaining complete weeks in the tax year (i.e. week 53 is ignored for this purpose). This is known as the pro rata earnings period.

Example

George becomes a company director in week 44 of the 2019-20 tax year.

For NIC purposes, the primary threshold and upper earnings limit are calculated by multiplying the weekly values by 9, because the earnings period starts with the week of appointment.

In 2019-20, George will pay NIC at the main rate of 12% on his director's earnings between £1,494 (9 × £166) (the primary threshold) and £8,658 (9 × £962) (the upper earnings limit), and at the additional 2% rate on all earnings above £8,658 paid up to 5 April 2020.

The significance of being a company director is that an annual earnings period must be applied for NIC purposes. It is therefore important to be clear as to who the directors of a company actually are. For example, there may be persons within the organisation who are called directors, but for whom that is just an honorary title.

Companies can save time and money by calculating directors' NIC in a similar way to other employees. Instead of paying very high levels of NIC on a short-term basis, directors who are paid regularly (e.g. directors who have contracts of service with their companies) can spread their contributions evenly throughout the tax year. The earnings period remains an annual earnings period, but contributions are made on account throughout the tax year. A recalculation on an annual basis is performed when the last payment is made and any outstanding National Insurance due is paid at that time.

Changes in accounting for VAT after prices are altered

HMRC have published Brief 6 (2019), which explains changes to the rules on accounting for VAT, where the amount paid changes after the VAT has been accounted for to HMRC from 1 September 2019.

The prices businesses charge for goods and services can be reduced after VAT has been accounted for on a supply, for example when a business delivers goods, some of which are faulty, and it agrees with its customer that the price should be reduced.

When this occurs a business normally sends its customer a credit note and gives a refund. The VAT rules specify that, where this happens, the suppliers must reduce their output tax, and their VAT-registered customers must adjust their input tax.

Businesses may also increase the price of a supply, for example, when more work is required to complete a task than was originally anticipated. In these cases, businesses normally issue debit notes for the increased amount and account for the additional VAT. Their VAT-registered customers may then recover the additional input tax, subject to the normal rules.

Price adjustments may occur long after goods or services have been supplied. Regulation 38 of the VAT Regulations applies to cases where the price change occurs after the supplier has already accounted for the output tax on the original supply in a VAT return.

The current rules do not impose a time limit for making VAT adjustments when price adjustments are made, but it is a requirement that the VAT must be adjusted. Failure to do so is an error which must be corrected in accordance with requirements, and within time limits set out in the statutory provisions.

HMRC state they have seen evidence that some businesses are trying to use the current VAT rules to gain a tax advantage by making VAT adjustments for reductions in price without refunding their customers. There is litigation on this topic and recent court decisions support HMRC's view of how the law applies.

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To put the matter beyond doubt, the VAT Regulations are being amended to the effect that Regulation 38 may only be used to reduce the amount of VAT paid to HMRC when a refund is actually made. Revised rules will also clarify when and how VAT adjustments must be made.

Broadly, under the new rules:

- the time an increase in price occurs is when the change is agreed by both the supplier and the customer - a debit note must be issued no later than 14 days after the price increase - the supplier must account for the increase in VAT in the VAT period in which the change occurs;

- a decrease in price occurs when a supplier makes a refund to a customer, or other person entitled to receive the payment - a supplier has 14 days to issue a credit note from the time the decrease occurs - a supplier must account for the decrease in the VAT period in which it takes place - a VAT-registered customer must reduce the amount of VAT it has claimed by the same amount, this does not prevent a supplier issuing credit notes in advance of refunds being made, but ensures that it is issued no later than 14 days after the payment.

August questions and answers

Q. A few years ago I bought an antique chair for £3,500. I have recently been offered £8,000 for it. Will I have to pay capital gains tax if I accept the offer?

A. A useful capital gains tax exemption exists for tangible moveable property (a chattel) which is not a wasting asset (broadly, an asset with a predictable life not exceeding 50 years).

A gain on disposal of a chattel is exempt if the disposal consideration is £6,000 or less. Where disposal proceeds exceed the exemption limit, the gain is limited using the following formula:

5/3 x (disposal consideration - £6,000)

In relation to your chair, the capital gain would be:

Disposal consideration - £8,000

Less: allowable cost - (£3,500)

Gain before chattel exemption - £4,500

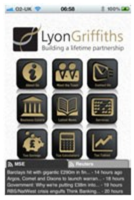
Less: chattels exemption:

amount by which gain exceeds 5/3 × (£8,000 - £6,000):

£4,500 - £3,333 = £1,167

Chargeable gain - £3,333

LG App



Tax Solutions

Q. I am a VAT-registered trader and use the flat rate scheme for working out my VAT payments. I receive a small amount of rental income each month which I include in turnover to calculate the VAT due to HMRC. The rental income is managed by a letting agent. Should I include the gross or net rent in my VAT?

A. HMRC's Notice 733, section 6.2 sets out what must be included for the purposes of calculating flat rate turnover, which includes the value of exempt income, such as any rent or lottery commission.

In addition, section 9.4, which deals with cash-based turnover, confirms that if a net payment is received, the full value before any deductions is included in the scheme turnover.

Q. I am the director of a family-owned company. My wife and my two children are employed by the company. If the company provides a mobile phone to each of us, what will the tax implication be?

A. No tax charge arises where an employer provides an employee with a mobile phone, irrespective of the level of private use. The exemption applies to one phone per employee.

A taxable benefit will however, arise if the employer meets the employee's private bill for a mobile phone or if top-up vouchers are provided which can be used on any phone.

If the company takes out a contract for four mobile phones and the bills are paid directly to the phone provider by the company, the bills will be deductible in computing profits. Each family member will receive the use of a phone tax-free, which means they do not need to fund one from their post-tax income.

August key tax dates

2 - Deadline for PAYE settlement agreement for 2018/19

19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/8/2019

Download our guide "Converting to the Cloud" from our website

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