LyonGriffiths

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LG News

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Tax-free Christmas parties

Whilst the tax legislation does not include a specific allowance for an employer providing a Christmas party for employees, HMRC do allow limited tax relief against the cost of holding a social function for employees, providing certain conditions are met.

Broadly, a social event - which of course, includes the annual Christmas party - will qualify as a tax-free benefit if the following conditions are satisfied:

- The total cost must not exceed £150 per head, per year;
- The event must be primarily for entertaining staff; and
- The event must be open to employees generally, or to those at a particular location, if the employer has numerous branches or departments.

The 'cost per head' of an event is the total cost (including VAT) of providing:

a) the event, and

b) any transport or accommodation incidentally provided for persons attending it (whether or not they are the employer's employees),

divided by the number of those persons.

Provided the £150 limit is not exceeded, any number of parties or events may be held during the tax year, for example, there could be three parties held at various times, each costing £50 per head.

Note however, that the £150 is a limit, not an allowance - if the limit is exceeded by just £1, the whole amount must be reported to HMRC.

The £150 exemption is mirrored for Class 1 NIC purposes, (so that if the limit is not exceeded, no liability arises for the employees), but Class 1B NICs at the current rate of 13.8%, will be payable by the employer on benefits-in-kind which are subject to a PSA.

If there are two parties, for example, where the combined cost of each exceeds £150, the £150 limit is offset against the most expensive one, leaving the other one as a fully taxable benefit.

For the employer, the cost of staff events is tax deductible for the business. Specifically, the legislation includes a let-out clause, which means that entertaining staff is not treated for tax in the same way as customer entertaining. The expenses will be shown separately in the business accounts - usually as 'staff welfare' costs or similar.

There is no monetary limit on the amount that an employer can spend on an annual function. If a staff party costs more than £150 per head (see below regarding this threshold), the cost will still be an allowable deduction, but the employees will have a liability to pay tax and National Insurance Contributions (NICs) arising on the benefit-in-kind.

The employer may agree to settle any tax charge arising on behalf of the employees. This may be done using a HMRC PAYE Settlement Agreement (PSA), which means that the benefits do not need to be taxed under PAYE, or included on the employees' forms P11D. The employer's tax liability under the PSA must be paid to HMRC by 19 October following the end of the tax year to which the payment relates.

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The full cost of staff parties and/or events will be disallowed for tax if it is found that the entertainment of staff is in fact incidental to that of entertaining customers.

VAT-registered businesses can claim back input VAT on the costs, but this may be restricted where this includes entertaining customers.

Proposals to pay doctors pension tax bills: update

In an attempt to encourage working overtime shifts, doctors have been promised that their tax bills for higher rate pension relief will be covered by the NHS. This development follows the refusal by doctors to work overtime because of tax penalties received on their pensions due to the £40,000 annual allowance limits.

The amount people can put into pensions tax free was reduced for all pension savers in 2010, when the £255,000 allowance was cut to £40,000 a year. This problem originally arose in 2016 when a tapered annual allowance for pension contributions was introduced. Broadly, the changes mean that the £40,000 annual allowance is steadily reduced down to a base level of £10,000. This will generally affect those earning more than £110,000, around a third of senior doctors and GPs.

The latest proposal for the NHS to pay doctors' pension tax relief, would allow doctors to withdraw money from their pensions to pay their tax bills for next year. Then, before the doctor retires, the NHS will top up their pension, meaning the cost of the measure to the health service will be spread out over time while doctors will not be out of pocket.

It is currently proposed that this measure will only apply to the 2019-20 tax year.

From 1 December 2019, an interim policy gives eligible NHS staff in Scotland the option to get their employer pension contributions paid to them as part of their basic pay (see Changes to protect NHS staff for further details). The measure has not yet been confirmed for the rest of the UK.

Should I register for VAT?

In broad terms, and subject to certain exceptions, a business will be required to register to charge and pay VAT once annual sales reach a pre-set annual threshold, which is currently £85,000. This threshold is determined by total sales and is not the same as total profits (which is generally sales minus expenses).

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However, a business can register for VAT even if its turnover (total sales) is below the threshold and it may actually save tax by doing so, particularly if its main clients or customers are organisations that can reclaim VAT themselves.

Example

Bill is a non-VAT registered painter and decorator. He is a basic rate (20%) taxpayer. He buys a new ladder to use in his business, which costs him £100 plus VAT, so he pays a total of £120 (£100 plus VAT at 20%. Bill will set £120 as a cost against his business profits. As he is a basic rate taxpayer, he will save tax of £24 (£120 x 20%), so the saw actually costs Bill £96. However, if he is registered for VAT, the £20 VAT paid on the item (the input tax) can be reclaimed and £100 is set against business profits for income tax. The tax reduction is therefore £20 (£100 x 20%) and the ladder costs £80 - saving £16 by being registered for VAT.

VAT-registered businesses supplying goods and services to private individuals often feel dis-advantaged compared to their non-registered counterparts because they have to charge an additional 20% on every bill issued.

A trader who does not want to have to register for VAT, may be able to stay below the annual VAT registration threshold by supplying labour-only services and getting customers to buy any goods needed themselves.

Deciding whether to register for VAT voluntarily before the registration threshold is reached is a big decision that can have lasting implications for the financial health of the business. Positive reasons supporting voluntary registration include:

- Reclaiming VAT - although a registered business will have to charge VAT on goods and services (known as charging 'output tax'), it will also be able to reclaim VAT that it is charged by other businesses (known as 'input tax'). Where input tax exceeds output tax in a given period, the business will generally be able to reclaim the difference from HMRC.

- Marketplace perceptions - some businesses choose to register for VAT in order to appear larger than they are. Customers are likely to be aware of the £85,000 registration threshold - and where a business is not registered, its customers will know that the business turnover is lower than this. A business may therefore consider registration as a way of increasing its standing amongst competitors, and in the eyes of clients.

Should I incorporate my business?

As things currently stand, the expected cut in the main rate of corporation tax to 17% from April 2020 is unlikely to happen, but current corporation tax rates remain pretty favourable. There are also other areas where company formation may help save tax.

The costs and regulations involved with running a company are usually greater than trading as a sole trader or in partnership, and should not be overlooked. In addition, incorporation generally means an increase in administration, which some businesses may find burdensome.

The starting point for dealing with companies and company directors is to remember that a limited company exists in its own right, which means that the company's finances are separate from the personal finances of the company owners. Strict laws mean that the shareholders cannot simply take money out of the company whenever they feel like it.

The question of whether to incorporate commonly arises as a business expands - the limited liability status that company formation provides is often needed to start winning contracts with bigger companies. However, incorporating may not be such a good deal in the early days of trade, or if there is no intention to grow beyond the status of a solely owned business. This may be particularly relevant if losses are envisaged in the early years of trading - it is possible to carry back losses made in the first four years and offset them, where applicable, against personal income of the three preceding years. This often results in a substantial refund of tax becoming due and may offer a much-needed cash boost to the business.

Although there are disadvantages to incorporating a business, the lower tax rates and other reliefs currently on offer still make it an attractive proposition. Some advantages worth considering include:

Although there are disadvantages to incorporating a business, the lower tax rates and other reliefs currently on offer still make it an attractive proposition.

- Ability to pay dividends to shareholders
- Flexible succession planning, particularly for inheritance tax purposes
- Greatly investment opportunities, for example potential to raise money through tax-efficient schemes such as the Enterprise Investment Scheme (EIS)
- Limited liability status for shareholders, although directors may be asked to give personal guarantees of loans to the company
- Potential increased saleability

It might be worthwhile revisiting the question of incorporation on a regular basis, and making the jump, where relevant, at the most appropriate time.

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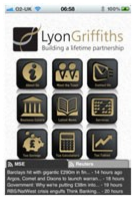
December questions and answers

Q. Do all assets qualify for the capital allowances Annual Investment Allowance?

A. Unfortunately not all expenditure on plant and machinery will qualify for annual investment allowances (AIA). The most common examples of assets that are not eligible are cars and assets that have been used for some other purpose before being brought into the business, for example a personally owned computer. These assets should still qualify for capital allowances, but allowances will be given gradually over several years, rather than the full cost being allowed against income all at once, which is what the AIA gives.



The AIA was set at its current level of £200,000 from 1 January 2016, but it was increased to £1,000,000 for a temporary period of two years from 1 January 2019. It is therefore currently expected that the allowances will revert to

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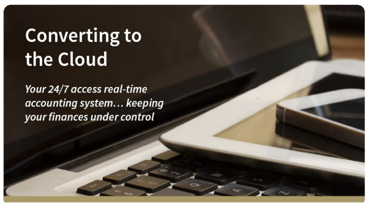

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£200,000 from 1 January 2021.

Q. Due to cash flow difficulties I have not yet paid my self-assessment payment on account, which was due on 31 July 2019. I realise that I will have to pay interest on the amount outstanding, but will I also have to pay penalties?

A. HMRC charge interest on any tax paid late. The current rate in force is 3.25%.

With regards to penalties, you will only be charged if your balancing payment (due 31 January 2020) is late. The penalties for late payment under self-assessment are as follows:

- 30 days late: 5% of the unpaid tax
- 6 months late: additional 5% of the unpaid tax
- 12 months late: additional 5% of the unpaid tax.

HMRC may reduce a late payment penalty in 'special circumstances', which does not include inability to pay. In addition, a defence of 'reasonable excuse' may be available.

In relation to payments on account, the maximum penalty for fraudulent or negligent claims by taxpayers to reduce payments on account is the difference between the correct amount payable on account and the amount of any payment on account made.

Q. My wife doesn't work. Can she transfer her unused personal tax allowance to me?

A. It is possible for a spouse or civil partner who is not liable to income tax, or not liable above the basic rate for a tax year, to transfer part of their personal allowance to their spouse or civil partner, provided that the recipient of the transfer is not liable to income tax above the basic rate.

The transferor's personal allowance will be reduced by the same amount. For 2019/20 the amount that can be transferred is £1,250. The spouse or civil partner receiving the transferred allowance will be entitled to a reduced income tax liability of up to £250 for 2019/20.

If you make the claim before 6 April 2020 for the tax year 2019/20, the claim continues until either you withdraw it or the recipient spouse or civil partner does not obtain a tax advantage. On the other hand, if you make the claim after the end of the relevant tax year, it will only have effect for the tax year to which the claim relates. So, if you make a claim after 5 April 2020 for 2019/20, you would need to make another claim for 2020/21 if appropriate.

The claim can be made up to four years from the end of the relevant tax year. In other words, a claim for marriage allowance for the tax year 2019/20 must be made by 5 April 2024.

December key tax dates

19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/12/2019

30 - Deadline for 2018/19 self-assessment online returns to be filed if you are an employee and want tax underpaid to be collected by adjustment to your 2020/21 PAYE code (for underpayments of up to £3,000 only)

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