LyonGriffiths

Chartered Accountants Tel 01270 624445

LG News

Making tax digital. The deadline is fast approaching.
Are you ready? Visit our website to see how it affects you.

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MTD pilot opens to all

The Making Tax Digital (MTD) pilot has been opened up to all businesses that will be mandated from April 2019 (i.e., the first VAT accounting period starting on or after 1 April 2019) to use compatible software to submit information directly to HMRC.

The pilot was opened at the end of 2018 to partnerships and VAT Flat Rate Scheme (FRS) users, and the following entities are now also able to join:

- EU traders

- businesses who file monthly VAT returns

- businesses that use non-standard VAT accounting periods

- businesses that are not up-to-date with their VAT returns

- newly registered businesses who have not previously used their VAT online account to submit a return

- groups (group can now join the MTD for VAT pilot although the mandatory start date for group registrations is 1 October 2019).

Interestingly, HMRC have noted that, as at 10 January 2019, more than 3,500 businesses had joined the pilot. However, the number of businesses that will be required to join from April 2019 is approximately 1.1m, meaning there is still plenty to be done before the final 'go live' date.

It is worth noting that each business has a very specific window in which it can sign up to MTD for VAT. Businesses (or their agent on their behalf) need to sign up:

- Only after they have filed all their non-MTD VAT returns (which may not be until 7 August, 7 September or 7 October 2019 for quarterly filers).

- Only when they have acquired an MTD compatible software product

- If they pay by direct debit, not within the 15 working days before the submission date and the five working days immediately after it.

This can give quite a short timeframe, particularly for businesses that file monthly returns.

The ICAEW Tax Faculty has received reports of unexpected rejections of applications to sign up for the pilot, but this is expected to improve following the relaxation of the eligibility criteria. Any business or agent that encounters a problem during the sign up process is advised to use the 'Get help with this page' link on the relevant screen. This will raise a ticket with HMRC's helpdesk who will get in touch to resolve the issue (i.e., it is a way to get specific help rather than just a way of raising a general issue with a gov.uk page).

For further information please visit our website and see Making Tax Digital which will help VAT businesses and other VAT entities to get ready.

Maximising the benefit of Gift Aid donations

The government's Gift Aid scheme aims to maximise the value of donations made to charities whilst allowing most UK taxpayers to benefit from tax relief on the gift. Since the scheme allows payments to be related to a previous year, the end of the tax year is a good time to give the matter a review.

The Gift Aid scheme allows individuals to claim tax relief on making one-off or regular gifts to charity and there are no lower or upper limits on donations. When a payment is made, it is treated as being made net of tax at the basic rate. So, if a basic rate taxpayer makes a donation of £100, the charity will be able to claim back tax of £25 from the government (£125 being the 'grossed up' value of the payment). The charity gets £125, but it costs the donor only £100.

Higher rate taxpayers can claim 20% (the difference between the higher rate of tax at 40% cent and the basic rate of tax at 20%) as a tax deduction on the total value to the charity of the donation. So, on a gift of £100, the charity still receives £125, and the higher rate taxpayer reclaims £25 (20% of the gross donation of £125). The claim is usually made via the individual's self-assessment tax return.

It is worth noting that the basic rate tax deemed to have been deducted from a donation will be clawed back by HMRC if the donor's income tax and/or capital gains tax (CGT) liability for the year is insufficient to match the tax retained.

The person making a donation doesn't necessarily have to be working to be paying tax - tax deducted from pensions and/or income will also cover the tax on Gift Aid payments.

For tax planning purposes, for example, to reduce a liability to higher rate tax in a previous year, it is possible to elect for a donation to be treated as paid in the previous tax year. The election must be made to HMRC by the date on which the individual's tax return was submitted for the previous tax year and, in any event, no later than 31 January following that tax year. An election can only be made if the gift can be paid out of taxed income or gains of the previous tax year.

The election provisions may be particularly useful to someone whose income for a particular tax year nudges just over the higher rate income tax threshold. It may be possible to make a gift under Gift Aid, which in turn will reduce liability to tax at the higher rate, and mean that the taxpayer could potentially avoid paying tax at marginal tax rates of up to 64.75%.

It may be worth reviewing any donations made under Gift Aid to ensure that full entitlement to potential tax reliefs has been utilised.

The 'section 455 charge'

For accounting purposes, cash transactions between a director and a personal or family company are recorded through the director's account. At the end of an accounting period, if the director owes the company money (i.e. the account is considered overdrawn), and the company is close (broadly, one that is controlled by five or fewer shareholders (participators), there will be tax consequences to consider.

A tax charge will arise under the Corporation Tax Act 2009, s 455 where a director's loan account is overdrawn at the end of the accounting period and remains overdrawn nine months and one day after the end of that accounting period. The tax charge is the liability of the company and is calculated as 32.5% of the amount of the loan. The rate of the charge is equivalent to the higher dividend rate.

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Example

Nicola is the director of her personal company N Ltd. The company's financial year end is 31 March.

On 31 March 2018, Nicola's loan account is overdrawn by £20,000 and it remains overdrawn by this amount on 1 January 2019 (the date on which corporation tax for the period is due).

The section 455 charge, payable by the company is £6,500 (£20,000 @ 32.5%).

Avoiding the charge

Even if the loan account was overdrawn at the end of the accounting period, the section 455 charge can be avoided if the loan is cleared by the corporation tax due date of nine months and one day after the end of the period. This can be done in various ways:

- the director can pay funds into the company to clear the loan;

- the company can declare a dividend to clear the loan balance;

- the director's salary can be credited to the account to clear the loan balance; or

- the company can pay a bonus to clear the loan balance.

It should be noted however, that with the exception of the director introducing funds into the company, the other options will trigger their own tax bills.

Two further points are also worth highlighting here:

- Clearing the loan may not always be beneficial and paying the s 455 charge may be preferable. For example, if the tax on a dividend or bonus credited to clear the loan is more than the section 455 charge.

- Once the loan is cleared, the s 455 tax is repayable. This happens nine months and one day after the end of the tax year in which the loan is cleared. It should also be noted that anti-avoidance rules apply to prevent the director clearing a loan shortly before the section 455 trigger date, only to re-borrow the funds shortly thereafter.

FTT examines juicy VAT case

The First Tier Tribunal (FTT) were recently called upon to examine whether fruit and vegetable juices sold as meal replacements were beverages and therefore standard-rated for VAT.

The case (The Core (Swindon) Ltd [2019] TC 06874) concerned a juice bar and health café which supplied juice cleanse programmes (JCPs) consisting of fresh drinkable products made from juicing raw fruits and vegetables. Customers would participate in a programme over multiple days, for example a 5-day programme might be taken where meals were replaced by JCP juices and smoothies for five days with four servings per day. The marketing material showed that the JCPs were marketed as meal replacement programmes and not merely as healthy drinks.

In HMRC's opinion, standard-rating applied for VAT purposes, but The Core argued that what was important was what the consumer sees, which was more than just some drinks. They were marketed and sold totally differently. In addition, customers were provided with advice and encouragement, as well as the menu plan.

The FTT was called upon to decide whether the JCP product was a beverage within excepted item 4 of VATA 1994, Sch 8, Grp 1, and in doing so, it needed to make a multi-factorial assessment looking at:

- how the product was marketed;

- why it was consumed by the customer; and

- what was the use to which it was put?

Overall, the key difference in this case compared to other cases cited at the Tribunal was that the product was specifically sold by The Core, and bought by its customers, as a meal replacement, and not as a beverage. Moreover, the JCPs were not marketed as beverages, but as meal replacements in liquid form. Although the JCPs appeared to be a kind of 'smoothie', they had a different function and so were regarded as a food.

The Tribunal was therefore able to allow the appeal and zero-rating applied to the JCPs.

In summary, this case was particularly interesting as it demonstrated how the FTT needed to look at many layers of information before being able to make their determination of the facts.

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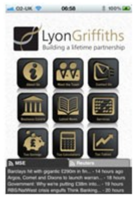
February questions and answers

Q. I recently sold my main residence and down-sized to a smaller property. Unfortunately, because of current economic conditions, the sale price of the house was £30,000 less than I originally paid for it many years ago. Can I offset this loss against income from my business and reduce my income tax liability for this year?

A. Unfortunately the tax law does not permit you to off-set losses in this way. I am assuming that your business does not trade in properties. Losses on the sale of a principal private residence are generally not allowable losses for tax purposes. If the property was an investment asset, the loss on the sale may be treated as a 'capital loss', which could be offset against other capital gains you make, but it cannot be offset against other income. For further information on this, see the HMRC Capital Gains Manual at paragraph CG65080.

Q. I have been trading for several years. Although I am not currently registered for VAT, I think my income is getting close to the VAT registration threshold. Are there any items I can ignore for working out my 'taxable turnover' for VAT registration purposes?

A. When the 'taxable turnover' of a business reaches the VAT registration threshold, currently £85,000 per annum, it must register for VAT. As you state, any income you re-



ceive that is not counted as 'taxable turnover' is excluded from the £85,000 turnover figure.

There are several items that can be ignored when calculating 'taxable turnover' for VAT registration purposes. This commonly includes insurance, postage stamps or services; and health services provided by doctors or dentists.

- Some goods and services are outside the VAT tax system so VAT is neither charged nor reclaimed on them. Such items include: goods or services you buy and use outside of the EU;

- statutory fees - like the London congestion charge;

- goods you sell as part of a hobby - like stamps from a collection;

- donations to a charity - if given without receiving anything in return.

Supplies of services to business customers in another EU member state or any customer outside the EU are treated as outside the scope of UK VAT and do not count towards turnover for VAT registration purposes.

Other non-business income that may be excluded includes disbursements incurred on behalf of a client, grants, or any income from employment.

It is also worth noting that 'one-off' sales of capital assets can be ignored. So, for example, if you sell a van and the income received puts the business turnover over the registration limit, the sales proceeds can be ignored.

Q. My employer has offered to give me an interest-free loan to purchase an annual rail fare ticket costing £3,500. Will I have to pay tax on the loan?

A. Strictly, the taxable benefit on cheap or interest-free loans is the difference between any interest paid and the interest payable at the 'official rate' (currently 2.50%). However, there is no charge where the total of all beneficial loans made to an employee do not exceed £10,000 at any time in the tax year. If this is the only loan you have from your employer, you will not need to pay tax on the benefit. However, it is worth noting that tax is charged on the amount written off of any loans, whether or not the recipient of the loan is still employed.

February key tax dates

2 - Last day for car change notifications in the quarter to 5 January - Use P46 Car

19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/2/2019

28 - First 5% penalty surcharge on any 2017/18 outstanding tax due on 31 January 2019 still unpaid

Talk to us about year end and pre-budget planning

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

LyonGriffiths
Building a lifetime partnership

17 Alvaston Business Park,
Middlewich Road, Nantwich,
Cheshire. CW5 6PF

Email enquiries@lyongriffiths.co.uk
Telephone 01270 624445
www.lyongriffiths.co.uk