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LG News

Capital allowances SBA update

HM Treasury and HMRC have recently published a summary and response document relating to the consultation on a new capital allowance for structures and buildings (SBA).

Broadly, the SBA allows businesses that invest in new builds or renovations on or after 29 October 2018, to claim tax relief at 2% a year on eligible costs.

A technical note outlining the key features of the allowances was published at Autumn Budget 2018, with the subsequent draft legislation released for consultation at Spring Statement 2019. Power to introduce the new allowance was contained in FA 2019, s. 30. Detailed legislation will be introduced by Statutory Instrument, which is currently being laid before parliament.

Key features of SBA include:

- relief will be given at a 2% flat rate over a 50-year period;
- relief will be available for new commercial structures and buildings, including costs for new conversions or renovations;
- relief will be available for UK and overseas structures and buildings, where the business is within the charge to UK tax;
- relief will be limited to the costs of physically constructing the structure or building, including costs of demolition or land alterations necessary for construction, and direct costs required to bring the asset into existence;
- relief will be available for eligible expenditure incurred where all the contracts for the physical construction works were entered into on or after 29 October 2018;
- claims can only be made from when a structure or building first comes into use;
- relief will not be available for land costs or rights over land;
- relief will not be available for costs of obtaining planning permission;
- the claimant must have an interest in the land on which the structure or building is constructed;
- relief will not be available for dwelling houses, nor any part of a building used as a dwelling where the remainder of the building is commercial;
- sale of the asset will not result in a balancing adjustment - instead, the purchaser will take over the remainder of the allowances written down over the remaining part of the 50-year period;
- expenditure on integral features and fittings of a structure or building that are currently allowable as expenditure on plant and machinery, will continue to qualify for writing down allowances for plant and machinery including the AIA, up to its annual limit;
- SBA expenditure will not qualify for the Annual Investment Allowance (AIA);
- where a structure or building is renovated or converted so that it becomes a qualifying asset, the expenditure will qualify for a separate 2% relief over the next 50 years.

As a result of the consultation process some features have been amended, including those relating to short-term leaseholds, eligible pre-trading costs, periods of disuse, and reducing claimants' administrative burdens.



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HMRC clarify VAT zero-rating of transport of disabled passengers

HMRC have issued Brief 3 (2019), which aims to clarify that the Department's policy on the scope of the VAT zero rate for transport services has not changed following the Upper Tribunal (UT) decision in Jigsaw Medical Services Ltd (2018) UKUT 0222.

In this case, the UT heard an appeal by HMRC against the First-tier Tribunal's decision that emergency transport in a specially adapted ambulance was zero-rated, rather than being exempt.

This decision may be of interest to suppliers that provide transport services in emergency vehicles (ambulances), or in passenger vehicles (such as, out-patient mini-buses) including those adapted for the carriage of one or more wheelchairs.

The supply of transport services for sick or injured persons in vehicles specially designed for that purpose is an exempt supply for VAT purposes.

The supply of passenger transport is zero rated if the vehicle used meets certain seating criteria. The supply of transport in any vehicle with seating to carry 10 or more passengers (including the driver) is a zero-rated supply.

Where a vehicle is designed or adapted to safely carry one or more persons in a wheelchair and, if it were not for those changes alone, the vehicle would seat 10 or more passengers, it is a zero-rated supply.

It is possible for a vehicle designed to carry sick or injured persons to also meet the seating criteria. The transport of sick or injured people in such a vehicle would therefore meet the criteria for both VAT exemption and zero rating. In these cases, the zero rate would take precedence. Not all vehicles designed to carry sick or injured people will meet the seating criteria, so transport of passengers in these vehicles is not zero rated.

HMRC are currently running a campaign to remind people that they could get up to £2,000 per child, per year, towards childcare costs.

Tax-free childcare - don't miss out!

HMRC are currently running a campaign to remind people that they could get up to £2,000 per child, per year, towards childcare costs.

Broadly, eligible parents/guardians may receive government top-ups of £2 for every £8 that they pay into a tax-free childcare account, up to a maximum of £2,000 per child (or £4,000 for disabled children). There is an overall maximum limit of £10,000. The scheme is open to all working parents across the UK with children under 12, or under 17 if disabled.

Under the scheme, the parent/guardian opens an online account and decides how much to pay in. Circumstances are re-confirmed online every three months. Anyone can pay into the account, including grandparents, other family members or employers, giving flexibility to pay in more in some months, and less at other times.

Money can be withdrawn at any time but in doing so, the government contribution will be lost.

To qualify for the government contribution, account holders will usually have to be in work, expecting to earn at least the National Minimum Wage (NMW) or Living Wage (LW) for 16 hours a week on average, over the next 3 months.

Self-employed people who do not expect to make enough profit in the next 3 months can use an average of how much they expect to make over the current tax year. Additionally, the earnings limit does not apply to self-employed individuals who started their business less than 12 months ago.

Unlike the previous childcare scheme, tax-free childcare does not rely on employers offering it. Any working family can use a tax-free childcare account, provided they meet the eligibility requirements.

The Childcare Choices website includes a childcare calculator for parents to compare all the government's childcare offers and check what works best for their families, including the 30-hour free childcare offer, tax-free childcare or universal credit.

Tax-efficient remuneration with pension contributions

Tax relief is generally available on pension contributions at the taxpayer's highest rate of income tax paid, meaning that basic rate taxpayers get relief on contributions at 20%, higher rate taxpayers at 40%, and additional rate taxpayers at 45%. In Scotland, income tax is banded differently, and pension tax relief is applied in a slightly



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different way.

Pensions are a particularly tax-efficient form of savings since nearly everyone is entitled to receive relief on contributions up to an annual maximum regardless of whether they pay tax or not. The maximum amount on which a non-taxpayer can currently receive basic rate tax relief is £3,600. So an individual can pay in £2,880 a year, but £3,600 will be the amount actually invested by the pension provider.

The total amount of tax relief available on pension contributions is calculated with reference to 'relevant UK earnings'. Unfortunately, dividends do not count towards 'relevant UK earnings' for pension contributions purposes. This means that where a director takes remuneration by way of a small salary and a large dividend, the dividend will not count and the individual's pension tax relief limit may be restricted. Moreover, tax charges will apply if the limit is exceeded.

A director looking to increase their tax-free contributions limit could consider either increasing the amount of salary taken from the company (to increase 'relevant UK earnings'), or making the pension contribution directly from the company as an employer contribution. Making an employer contribution has additional advantages.

Qualifying employer contributions count as allowable business expenses, so the company could currently save up to 19% in corporation tax. In order to qualify for a deduction, the pension contributions should be 'wholly and exclusively' for the purposes of business. HMRC will check for evidence that this is the case, for example whether other employees are receiving comparable remuneration packages.

Another advantage of making a company contribution is that employer National Insurance Contributions will not be payable, saving the company up to 13.8% on the contribution amount.

This means that the company can potentially save up to 32.8% by paying money directly into your pension rather than paying money in the form of a salary. Depending on circumstances, this may or may not be more beneficial than paying personal pension contributions.

July questions and answers

Q. If my husband and I give our house to my children but continue to live in it, will inheritance tax be chargeable on the property when we die?

A. The inheritance tax residence nil rate band (RNRB), which is currently being phased, is designed to help people in your position to pass on the family home to children or grand-children, tax-free after their death.

Broadly, where someone dies on or after 6 April 2017 and their estate is above the basic inheritance tax threshold (currently £325,000), the estate may be entitled to an additional threshold before any inheritance tax becomes due. The extra amount for 2019/20 is up to £150,000 and this will increase to £175,000 in 2020/21.

The additional threshold can be added to the basic inheritance tax threshold of £325,000 if the person and their estate meet the qualifying conditions. This means that from 2020/21, it should be possible for a married couple or civil partners, to pass on a family home worth up to £1 million to their direct descendants.

The amount of the additional threshold due for an estate will be the lower of:

- the value of the home, or share that direct descendants inherit
- the maximum additional threshold available for the estate when the person died

HMRC's guidance Inheritance tax: additional threshold (RNRB) provides further information. Always seek professional advice before entering into any arrangement where the main purpose, or one of the main purposes, is to obtain a tax advantage.

Q. My child's school is asking parents to make a one-off donation to help with much-needed school funds. If I complete a gift aid form for my donation, will I be able to claim tax back on the payment?

A. If the school is a registered charity, either registered with the Charity Commission or with HMRC, you can make gift aid payments to them - both regular and one-off payments.

Under gift aid your donation is treated as being made net of basic rate tax (at 20%) tax and the charity claims the tax back from the government. So, if you make a donation of £100 under the Gift Aid scheme and you're a basic rate taxpayer, the charity is able to claim back tax of £25 from the government, which means the



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charity receives £125, but it costs you only £100. A higher rate taxpayer 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, a higher rate taxpayer can reclaim £25 (20% of the gross donation of £125). The claim is usually made via the individual's self-assessment tax return.



Q. I borrowed some money from my company to lend to my brother. He is paying it back in monthly instalments over three years. I am the sole director and shareholder of the company and I am not charging my brother interest on the loan. Are there any tax implications I need to consider?

A. The tax implications for the company are that the loan is deemed to have been made to an associate of a participator in the company, and as such, it will be caught by what are commonly referred to as the 'section 455 rules'. Broadly, these rules mean that the company will have to pay tax at 32.5% on the amount of the loan outstanding nine months after the accounting year end of the company. When the loan has subsequently been repaid to the company, HMRC will refund the tax paid.

There is an exception to this, namely where a loan does not exceed £15,000, but only when the shareholder does not own more than 5% of the shares.

If an employee of a relative of an employee receives an interest-free loan from an employer, this will be a benefit-in-kind for the employee. Interest at the 'official rate' (currently 2.5%) is calculated, and this deemed interest is subject to tax. However, there are exceptions to this tax charge where:

- the loan is a 'qualifying loan';
- a qualifying or non-qualifying loan is less than £10,000; and
- the employee can show that they received no benefit from the loan to the relative.



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July key tax dates

5 - Deadline for PAYE settlement agreement for 2018/19

6 - Deadline for 2018/19 forms P11D and P11D(b) to be submitted and copies of P11D to be issued to relevant employees

Deadline for employers to report share incentives for 2018/19

14 - Return and Payment of CT61 tax due for quarter to 30 June 2019

19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/7/2019 or quarter 1 of 2018/19 for small employers

Class 1A NIC due in respect of the tax year 2018/19

31 - Second self assessment payment on account due for 2018/19; Second 5% penalty surcharge on any 2017/18 outstanding tax due on 31 January 2019 still unpaid

Penalty of 5% of tax due or £300, whichever is greater for 2017/18 personal tax returns still not filed

Deadline for Tax Credits to finalise claims for 2018/19 and renew claims for 2019/20

Half yearly Class 2 NIC payment due



The information contained in this newsletter is of a general nature and no assurance of accuracy can be given. It is not a substitute for specific professional advice in your own circumstances. No action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a consequence of the material can be accepted by the authors or the firm.



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