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As always if there is a particular subject you would like us to cover please email info@wyliebisset.com

On the seventh day

HMRC have announced that a longstanding concession which allowed a penalty free seven day grace period for the late filing of certain returns is to end. The change is relevant to company tax returns and employers' end of year returns. The concession will cease on 31 March 2011.

The concession established the principle that penalties would not be charged when 'all reasonable steps' to file returns on time had been made but this had not been achieved due to unforeseen circumstances such as postal delays.

Online filing is already required for employer P35s and P14s. It becomes mandatory for corporation tax returns filed from 1 April 2011 in respect of accounting periods ending after 31 March 2010. HMRC considers the concession to be 'redundant' because the delays it was intended to address will no longer happen. Returns must therefore reach the department by their due date or late filing penalties will be incurred.

This means that from 1 April 2011 where a relevant return is submitted late a penalty will only be avoided using the statutory rules. HMRC have stated:

'Any customers filing a return late will, as now, be able to request us to remove any penalty, if they believe they had a reasonable excuse for the delay in filing. We will consider every case on its own merits. Customers can also appeal against the penalty to a Tribunal.'

WB BULLETIN

AUTUMN 2010

Entrepreneurs' Relief (ER) - Up she goes...

An unexpected but welcome announcement was made by the Chancellor in the Emergency Budget. This concerned ER and a significant rise in the lifetime limit up from £2m to £5m for disposals on or after 23 June 2010.

Introduced in 2008 ER applies to certain disposals arising on or after 6 April 2008. The lifetime limit was originally set at £1m. The relief originally worked by reducing gains on qualifying assets by 4/9ths leaving the balance of the gain chargeable at 18%. This resulted in an effective rate of tax of 10%.

The lifetime limit was increased to £2m for qualifying disposals arising on or after 6 April 2010.

As a result of the introduction of the 28% rate of capital gains effective from 23 June 2010, the 4/9ths reduction on qualifying gains would no longer achieve an effective rate of tax of 10%. So instead qualifying gains up to the balance of the new £5m lifetime limit will simply be charged at a 10% rate.

Where an individual or trustee has made qualifying gains above the previous £2m limit before 23 June 2010 (£1m limit before 6 April 2010) they will not qualify for additional relief in respect of that previous disposal.

However, if further qualifying gains are made on or after 23 June 2010 a claim can be made up to the balance of the new £5m lifetime limit.

Example

George has previously used his lifetime ER limit of £1m on the disposal of a business in 2009/10. In July 2010 he makes another qualifying chargeable gain of £5m. He is a higher rate tax payer for 2010/11.

The £5m gain in July 2010 is subject to the new £5m lifetime allowance. As he has already benefitted from the £1m limit in 2009/10, he has a balance of £4m to use. Therefore £4m of his gain will be taxed at 10%. The remaining £1m will be taxable at 28% after allocating the annual CGT exemption amount of £10,100.



Mid year crisis...

One of the biggest changes announced in the Emergency Budget surrounded capital gains tax (CGT). Although no changes were announced to the CGT annual exemption, which allows the first £10,100 of an individual's gain to be tax free each year, significant changes were announced to the rate of CGT that might apply.

The 2010/11 tax year is effectively split into two parts when determining what rate of tax applies.

Gains that arise before 23 June 2010 and that are above the annual exemption and any available losses, are dealt with separately and as a result will be taxed at a flat rate of 18%.

The position for gains arising on or after 23 June 2010 is a little bit more complicated as it is possible that they could be taxed at up to three different rates. Firstly, in situations where Entrepreneurs' Relief applies the CGT rate remains at 10%. Other gains could be taxed at 18% or 28%. This is because the tax rate is determined by the level of an individual's total taxable income and gains, after all allowable deductions such as losses, personal allowances and the CGT annual exemption have been taken into account. For 2010/11 where this amount is below £37,400 the gains will be taxable at 18%. Gains or any parts of gains above this limit will be taxable at 28%.

An important aspect of these rules is that an individual can choose to allocate capital losses and the annual exemption in any way that minimises their overall CGT liability. For example, it will usually make sense to allocate losses and the annual exemption against gains that are facing a 28% CGT charge rather than gains which are facing an 18% charge. Losses made in 2010/11 and before 23 June 2010 do not have to be matched with gains arising in this period as seen in the example below:

Example

During 2010/11, Jeffrey made two gains of £50,000 one in May 2010 and one in July 2010. His taxable income after deducting the personal allowance is £25,000.

The gain in May 2010 is potentially chargeable at 18% and the gain in July 2010 at either 18% or 28%.

To minimise the CGT due, it will be sensible to allocate the annual exemption in the most efficient way. In this case the annual exemption of £10,100 should be used to reduce the gain arising in July 2010 as it is potentially chargeable to 28% tax. The remaining amount chargeable to CGT is £39,900 (£50,000 - £10,100) but at what rate?

The rate of CGT now depends on whether taxable income for 2010/11 and chargeable gains arising after 22 June 2010 combined exceeds the basic rate income limit of £37,400.

In this example as total taxable income of £25,000 plus the £39,900 chargeable gain is £64,900, this is £27,500 in excess of the basic rate limit of £37,400. This excess is liable to CGT at 28%. The balance of the gain remains chargeable at 18%. The May 2010 gain of £50,000 is also chargeable at 18% as it predates the changes.

Clearly it will be essential that good records are kept in order to determine the correct date of disposal and to ensure the gains are correctly calculated and the tax is minimised as far as possible.

Webs designed to capture

Many UK small businesses either do not have a website or existing websites are poorly presented and can soon become out of date. If you already have a website when was the last time you reviewed it? If you don't have a web presence yet - where do you start? Use the tips below to help your website reach its full potential.

Where to start

Do you have the expertise available to build and manage your own site or will you leave it to the experts? If you need to outsource start by browsing sites that you like and which have the functions your own website will require, such as an online shop. At the bottom of the home page it usually shows who built the site and links to their own website. Alternatively ask friends and colleagues for recommendations or chose a local provider and ask for references.

A good web builder will provide you with appropriate advice but make sure you consider the following:

- How much will it cost to build? Once it is built how much will it cost to make updates or will you have access to a content management function so you can make updates in house?
- Keep your domain name as short, simple and memorable as possible. Make sure you own the domain name if your web designer acquires it for you.
- All companies and LLPs which have a website are required to display certain information regarding their registration. Other legal areas to consider include disability discrimination and accessibility, the Data Protection Act e-commerce and distance selling regulations (if applicable). If you are unsure of your legal obligations, you should seek professional advice.
- Make sure your website is secure so you don't risk falling victim to hackers.
- An eye-catching and professional design is crucial. However, do not crowd your site with graphics and avoid complicated or slow-loading images – visitors will soon lose interest if your website takes a long time to appear.
- Ask your web designer about search engine optimisation. This may be charged as an extra service but there are steps that could be taken when building the site to help with search engine rankings.

Take time to plan

If you commission someone to build your site they will still need to be provided with the content and no one knows your business better than you do. Involve key team members when deciding: What kind of image do you want to convey? What information should the site display? Who will be responsible for keeping it up to date?

Once you have decided on the content when writing the text, use short paragraphs that are easy to read on-screen. Make sure you use a writing style to suit your clients such as informal or formal English, friendly or reserved. Before your site goes live, ask colleagues and friends to check your site as if they were a visitor looking for information.

Promote, promote, promote!

Include your website address in advertisements, email signatures and all business correspondence. Actively drive traffic to your site by encouraging clients and prospects to visit – don't just sit back and wait for browsers to find you!

Careful planning and regular input will ensure that your website works for your business.



Tooling up

HMRC have recently issued a reminder about the various 'toolkits' that they have developed to assist agents when preparing returns. Although the toolkits are aimed at tax professionals, they highlight common errors and the steps that can be taken to reduce those errors. The first series of toolkits cover:

- marginal small companies' relief;
- capital allowances for plant and machinery;
- private and personal expenditure;
- capital gains tax for land and buildings; and
- trusts and estates.

The intriguing thing about all of the toolkits is that the main area of risk for all the above areas is record keeping or the lack of it!

In addition, for capital allowances on plant and machinery the main areas of risk include:

- correctly identifying the amount and date of qualifying expenditure on acquisitions
- recognising what is a disposal for capital allowances
- and non-business use of assets, particularly cars.

For private and personal expenditure, the main areas of risk are:

- non-business expenses being incorrectly recorded or misposted in the business records and claimed in error as allowable expenses
- personal bills being paid by the business
- travel and subsistence
- entertaining, gifts, subscriptions and sponsorship
- and drawings and capital account.

So the moral is clear – good records today keep the taxman at bay. If you would like to discuss this area in more detail, please do get in touch.



An unkindly cut

Child Trust Funds (CTFs) is one of the areas to be forfeited as part of plans to reduce government spending. Announcements indicate that new accounts will cease to be available from early 2011 with a significant reduction in the government funding contribution in the meantime.

The intention of CTFs was to encourage saving for children so that a useful fund was available when the child reaches 18. Up until now, every baby born after 31 August 2002 has received at least £250 (£500 for low-income households) in the form of a voucher, with youngsters getting a top-up payment from the government (typically £250) when they reached seven.

The amount to be contributed at birth is to reduce to just £50 for births on or after 2 August 2010 (£100 for children from low-income households) and is to cease entirely from early 2011.

All government top-up payments have now ended for those children that reach seven on or after 1 August 2010.

What about existing accounts?

For the estimated 5 million accounts currently in existence the funds will continue to be run as previously. This means that:

- the fund itself retains tax-free status
- additional investment by family and friends can still be made up to an overall £1,200 per annum
- withdrawals cannot be made until the child reaches age 18
- it will still be possible to move it to another provider.

However, children born after all the relevant legislation is in place will not be eligible for a Child Trust Fund. This appears to mean that the availability of the tax free vehicle is withdrawn as well as the government financial contribution.

For more information about CTFs generally including any further developments visit www.childtrustfund.gov.uk



Fit or a fiddle

What is the fit note?

The Statement of Fitness for Work, or 'fit note', is a new Medical Statement that doctors now issue from 6 April 2010, which is relevant to all employers throughout the UK.

It replaces the old 'sick note' and aims to provide more useful information on how an employee's condition affects what they do and how they might be able to return to work.

A doctor will give a 'may be fit for work' statement if they think that the employee's health condition may allow them to work - as long as the employer gives them the appropriate support.

What's different about the new fit note?

In the past, doctors have either said that 'you should refrain from work' or 'you need not refrain from work'. With the fit note the doctor will be able to advise their patient if they are 'not fit for work' or a new option - 'may be fit for work taking account of the following advice'.

The idea is that it may help employers make simple and practical adjustments to help employees return to work and reduce unnecessary sickness absence, as the doctor should be able to suggest ways of helping an employee get back to work. This might mean discussing:

- a phased return to work
- altered hours
- amended duties
- workplace adaptations.

Why the change?

For many employees work means a lot more than just their salary. Studies show that work is good for health and prolonged sickness absence can produce its own set of problems, such as isolation and loss of confidence. Therefore, many employers recognise that reducing levels of long-term ill health is about developing a partnership between the individual, the doctor, and relevant management staff.

To buy or not to buy?

Capital allowances have changed significantly over the last few years and there are more changes in store. This could understandably cause confusion about what allowances are available and when is the best time to buy new assets. However, as the changes have been announced quite far in advance, this could also be viewed as an opportunity to ensure tax savings are maximised on capital expenditure purchases over the next couple of years.

The changes which come into effect on 6 April 2012 for the self-employed and 1 April 2012 for companies are as follows:

- Annual Investment Allowance (AIA) is an allowance which can be offset against plant and machinery acquisitions (excluding cars). The AIA increased from April 2010 to £100,000 from £50,000, but will decrease significantly to just £25,000.
- General plant and machinery currently qualifies for a writing down allowance (WDA) of 20% but this rate is dropping by 2% to 18%.
- At the same time the WDA for the special rate pool, which includes integral features, will also decrease by 2% from 10% to 8%.

Impact for the self employed

The decrease will affect the self employed (sole traders and partnerships) from 6 April 2012. The impact of the reduction will vary depending on an individual's tax and national insurance position. The WDA reduction is only likely to have a significant tax impact where a business has a significant general or special rate pool balance brought forward from earlier years. The reduction in the AIA from 6 April 2012 is clearly more significant in terms of maximising tax savings and minimising tax liabilities.

Example

Megan is currently a 40% higher rate tax payer (assume higher rate tax remains at 40%) and as her trading profits are in excess of the NIC upper earnings limit she will only have to pay the additional NIC rate. This increases by 1% to 2% from 6 April 2011 along with other NIC rates.

She is planning a major refurbishment to her trading premises within the next two years which will include a new central heating and air conditioning system. These are classed as integral features for capital allowances. The cost of this is likely to be in the region of £60,000.

Expenditure before 5 April 2012

The AIA is available on these integral features and the cost of £60,000 is within the £100,000 limit for a 12 month period – 100% tax relief applies in 2011/12, saving tax and NIC of £25,200 (£60,000 x 42%).

Expenditure after 5 April 2012

Only £25,000 of the £60,000 expenditure is covered by the AIA leaving £35,000 eligible for WDA. However, as the expenditure is on integral features, it only qualifies at the special pool rate of 8% from 6 April 2012. In 2012/13 the annual allowance will therefore only be £2,800, giving an overall capital allowance entitlement of £27,800. Further WDA at 8% on a reducing balance will be available in future years.

What does this mean in tax savings?

It means that the immediate tax saving in 2012/13 is only £11,676 compared to £25,200 if the expenditure had been incurred in the previous tax year- a difference of £13,524!

It can be seen that the decrease in allowances could lead to large increases in tax liabilities if a business requires significant plant and machinery purchases so careful planning before 6 April 2012 may be required to maximise the tax relief available.

What about companies?

The changes come into operation for companies on 1 April 2012. However, the potential impact of reduced capital allowances and therefore lower tax relief will be balanced partly/fully by the fact that lower corporation (CT) tax rates apply on a company's total taxable profits from 1 April 2011 onwards.

For a company which qualifies to be charged at the small profits rate there is a decrease in the CT rate from 21% to 20% for accounting periods (or part thereof) from 1 April 2011. The main company rate is also to decrease by 1% on that date but is to continue to decrease in stages by a further 1% each year on 1 April until it reaches 24%. This means that the main rate should be 26% from 1 April 2012 when the capital allowance reductions start to impact.

Example

A company which makes accounts to 31 March intends to spend £120,000 on a new lorry for its haulage business within the next two years.

Purchase in the year to 31 March 2012

The AIA will provide 100% tax relief on the first £100,000 and then 20% WDA will also be available on the excess in the year of purchase. This amounts to £104,000 of capital allowance entitlement.

Purchase in the year to 31 March 2013

The AIA will only provide 100% relief on £25,000 of the cost, leaving £95,000 eligible for WDA. However the WDA reduction means that the annual allowance is only 18% giving an immediate allowance of £17,100 and a total allowance entitlement for the period of £42,100.

Tax impact

This depends on the CT rate of the company. For the purpose of this example the following assumption has been made that either the company is subject to the small profits rate of 20% (both years) or the main rate of 27% for the year to 31 March 2012 and 26% for the period to 31 March 2013. See table below.

	Small profits rate	Small profits rate	Main rate	Main rate
	To 31 March 2012	To 31 March 2013	To 31 March 2012	To 31 March 2013
CT Rate	20%	20%	27%	26%
Capital allowances	£104,000	£42,100	£104,000	£42,100
Tax relief	£ 20,800	£8,420	£28,080	£10,946
Additional liability		£12,380		£17,134

The impact of these changes for companies will depend on the level of taxable profits as well as the level and timing of plant expenditure - so please contact us for a more detailed review if significant plant and machinery expenditure is a key issue.