

AUTUMN NEWSLETTER

Key tax issues for 2008/09

Now that 2008/09 is in full swing a reminder of some key developments on capital acquisitions and disposals is timely.

Capital Allowances

For expenditure, incurred either by an unincorporated business or a company, the new tax relief changes on plant and machinery will now start to take effect. Most businesses will benefit from the new 100% annual investment allowance (AIA) for general plant and machinery. All businesses will continue to obtain 100% allowances for equipment which meet energy or water saving criteria. However once the AIA is used, any additional expenditure will get a lower annual allowance so careful timing of expenditure to maximise the availability of reliefs is essential.

Selling your business?

For individuals making share and business disposals, particular care is required to ensure that transactions will qualify for the new Entrepreneurs' relief now that both taper relief and indexation allowance have disappeared for individuals.

Both these areas of capital transactions within businesses are subject to detailed rules. Please contact us to see how we can make them work for you and your business.

Owning commercial property can be a taxing issue

The adverse effect of the abolition of taper relief for capital gains tax (CGT) purposes for disposals on or after 6 April 2008 has been partially relieved by the introduction of Entrepreneurs' Relief (ER).

The effects of ER

The relief works by reducing gains (broadly, sale proceeds less cost) on qualifying assets by 4/9ths, leaving the balance of the gain taxable at 18%. By an amazing coincidence this gives a tax rate of 10%, the effective higher rate of CGT if an asset had qualified for full business asset taper relief.

ER may be available on gains of up to £1m over an individual's lifetime starting from 6 April 2008. The impact of ER will be diminished once the £1m limit is passed, whether on a single disposal or on a cumulative basis. The maximum ER which will be available is £444,444 (£1m x 4/9ths) and this means that the effective rate of CGT will climb towards, but will never actually reach, 18% for gains exceeding £1m.

The impact on commercial property

One particular area of concern is where an individual owns the premises from which a trader conducts their business. This might be their own business or a business run by an unconnected third party. Under the taper relief rules the gain

on the disposal may well have qualified for some business asset taper. Under ER the disposal may not qualify for relief at all.

If the property has been used by the individual's own qualifying company and they sell the shares in the company, then ER may be available. A similar result may arise if the property has been used by a partnership of which the owner is a member. In either case, the sale of the property must occur as part of the individual's withdrawal

from the business carried on by the company/partnership. In both cases the impact of ER may be heavily diluted if the property has been rented to the company/partnership at a market value rent.

Letting to others

In situations where the property has been let to unconnected parties, ER will simply not be available and the full gain will be taxed at 18%. Without the benefit of

indexation, which is also withdrawn for disposals by individuals and trustees on or after 6 April 2008, there could be a major increase in the potential CGT due on any future sale.

There are now different issues to consider if you are planning to purchase new premises for your business and, as well as the CGT issues, it is also important to consider the availability of Business Property Relief for inheritance tax purposes.

We are happy to advise you on these matters.



Green with envy or will it be the blues?

In a year when motoring costs have spiralled and are set to increase, the news that there are changes to the tax treatment of business cars should attract attention.

In recent years the government has introduced certain tax incentives to encourage investment in plant and machinery including cars which are more environmentally friendly or energy saving. It was reasonable to expect that further developments in this policy would occur.

The envious green

So, on Budget day the announcement that up front tax relief of 100% would continue for businesses of all sizes on new green car purchases, was not unexpected. The arrangement which has been around for the last 6 years was due to end on 31 March 2008. It now has a new lease of life to 2013.

One key change has been made however as to what qualifies as a green car.

From 1 April 2008 the car has to emit no more than 110 grams of CO₂ emissions per kilometre (gm/km). Previously it was 120gm/km. The CO₂ emissions of a car are readily available as it is required on the vehicle registration document and so has to be supplied by the car manufacturers by law.

Various websites provide lists of eligible cars including comcar.co.uk. The list of qualifying models is currently short and often only basic versions of small cars will qualify, as higher specifications such as automatic transmission increases the emissions. However that also means that many come with a lower price tag, some at around £7,000, a further potential attraction. Qualifying cars include Citroen C1, Toyota Prius, Peugeot 107 and even a

1.6 diesel version of the Mini Clubman if you want to splash out!

The blues for many

The reality is that most business car purchases do not currently meet this green standard and for many years those purchases have instead had only an annual allowance of 25% which gradually wrote off the cost of the asset for tax purposes. For cars which cost more than £12,000 the allowance was capped at £3,000 annually but on disposal of such cars an extra allowance was often available to cover the balance of the net cost to the business.

This allowance has now reduced from 25% down to 20% in the Finance Act 2008 as part of a general overhaul of capital allowances on business capital expenditure. More significantly the Budget 2008 made further announcements which will make many car purchases even less attractive.

It is proposed that from 1 April 2009 cars which exceed 160gm of emissions will attract an annual allowance of only 10% with cars between 110-160gm getting the standard 20%, irrespective of car price. Leasing such high emission cars as an alternative to buying will also result in lower deductions for tax, due to restrictions on such rentals.

For many businesses other aspects of the proposals may mean the extra allowance on disposal to write off the balance will no longer be available. Instead the business will continue to get the 10% or 20% reducing balance allowance long after the car has been sold or gone to the scrap yard.

As always the precise impact of these proposed changes on each business will vary so please contact us if you wish to discuss the impact for your business.

Flexing the family

From April 2009 the right to request flexible working is extended to parents of children up to the age of 16. Currently it is available for children under 6, disabled children under 18 and carers of adults. But what does flexible working mean?

The concept of flexible working is very wide and employees could ask for a variety of different work patterns or arrangements under these rights. It can involve changes to the hours an employee works, the times they are required to work or their place of work.

Whilst initially this may seem burdensome it can also have significant advantages for the business in reducing absenteeism, retention of staff and staff motivation.

There are a number of working practices that involve changes to the hours and times worked:

- A flexitime arrangement requires an employee to be at work during a specified core period, but lets them otherwise arrange their hours to suit themselves.
- With compressed hours, employees work the same hours over fewer days.
- With annual hours contracts, employers and employees agree they will work a given number of hours during the year, but the pattern of work can vary from week to week.
- Staggered hours contracts let employees start and finish work at different times.
- Employees may also wish to take time off in lieu, unpaid sabbaticals or career breaks.

Employees may request a job-sharing arrangement.

This is where one job is shared between two people, a simple example would be where one person works in the morning and one in the afternoon.

Shift work, part-time work and term-time work also count as flexible work, in that they involve variations to the normal

pattern of working hours for the particular business.

Flexible working may also involve changes in the location of the workplace, such as working from home.

The legal position

An employee has a right to make a request under these rights if they have been in their current employment for at least 26 weeks. There are detailed procedures for both the employee and employer about how that request is then dealt with.

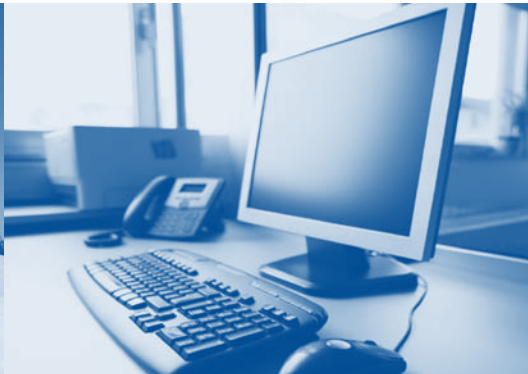
Where a request is agreed you may need to make some changes such as amending the employee's contract of employment to reflect the changes. You also need to consider the impact on other employees.

It is also important to ensure you are consistent in your approach to flexible working so keep clear records of who has applied to work flexibly and what your response was. Monitor and evaluate how the new arrangements are working so you can put changes in place if necessary.

You can find more detailed guidance in 'Flexible working - the right to request and the duty to consider: a guide for employers and employees' produced by the Department for Business Enterprise and Regulatory Reform.

Visit www.berr.gov.uk/employment





Capital allowances is the set of tax rules which determines the tax deduction you get when you incur expenditure on capital assets used in a business. The rules affecting 'plant and machinery' are the most important area for the majority of businesses as many businesses do not benefit from capital allowances on their business premises.

Significant proposed changes to these rules were announced back in March 2007 but have only now become final in this year's Finance Act 2008.

The purpose of this briefing is to explain how these rules will now operate. The main emphasis will be on the impact on plant and machinery expenditure but a summary of where we are with tax relief for premises expenditure is included. For companies the changes will apply from 1 April 2008 and for the self employed from 6 April 2008.

Capital Allowances The New Rules

What now qualifies as 'plant and machinery' expenditure?

Relevant assets have always included machines, equipment, furniture, computers, cars and other motor vehicles. However, a key change under the new rules is the introduction of a new category of plant and machinery to be known as 'integral features'.

Integral features will include lifts, electrical and lighting systems, air conditioning and heating systems. It will not include kitchen and toilet fixtures which will continue to be treated as normal plant and machinery. All expenditure belonging to the new group will be allocated to a separate special rate pool for capital allowances. If your business incurs expenditure on plant which was previously treated as long life plant, this will also now be allocated to the same special rate pool.

Comment

Some integral features previously qualified as ordinary plant but some were classified as building expenditure and often did not qualify for any tax relief so this aspect of the change is beneficial.

However the introduction of this new category does increase the analysis required when buildings are purchased, as capital costs will need to be allocated between building, plant and integral features to ensure tax relief is maximised, so do please contact us if this affects you.

Changes to allowances

- The 50% first year allowance (FYA) for small businesses and 40% FYA for medium sized businesses cease to be available for expenditure incurred on plant and machinery from 6 April 2008 for the self employed or 1 April 2008 for companies.
- A new Annual Investment Allowance (AIA) will be introduced.
- A 100% enhanced capital allowance (ECA) continues to be available for expenditure on energy saving plant and machinery which includes certain 'green' cars.
- The annual allowance on the normal plant and machinery pool is reduced from 25% to 20%.
- The annual allowance on the new special rate pool will be 10%.

What is the AIA?

The AIA will apply to expenditure incurred on plant and machinery on or after 6 April 2008 for the self employed or 1 April 2008 for companies. It will not be available for expenditure on cars but will be available for most types of plant and machinery, including integral features.

The annual allowance will be £50,000 per 12 month accounting period and all qualifying expenditure up to that level will qualify for a 100% allowance. Anything over that will fall into the normal capital allowance pools at either 20% or 10%.

An apportionment of the £50,000 limit will be required if the accounting period straddles April 2008. For example, a company with a 31 December 2008 year end will only be entitled to an AIA of £37,500 ($9/12 \times £50,000$).

Am I a winner or a loser?

This depends on how much you spend and what you spend it on. For example, if you spend £10,000 per annum on plant, then you will be a winner. Previously, a small business would have obtained a 50% FYA (£5,000) but then would have had to write the reducing balance off at 25% per annum in future years. With the AIA, all of the £10,000 will be fully written off in year one so many small businesses will now get 100% up front relief on plant expenditure.

However, if you spend £200,000 on air conditioning, you will be a loser. Previously, a medium sized business would have received a 40% FYA (£80,000) and then a 25% reducing balance allowance per annum in future years.

Under the new rules, the AIA will only amount to £50,000. The balance of £150,000 expenditure will be allocated to the special rate pool and will obtain a 10% allowance in the same period. This would give total capital allowances for the year of expenditure of £65,000, being £50,000 AIA plus £15,000 annual allowance. In future periods only the 10% annual allowance will be available.

Comment

The timing of capital expenditure has always been an important consideration because of the effect on taxable business profits. These changes could mean that there is a significant impact. For the small business big swings in taxable profits could occur from one year to the next depending on the level of capital expenditure. You may wish to discuss your expenditure plans so that together we can maximise the benefits available and also advise you of the cash flow implications for tax payments.

Continued overleaf >>>

Is AIA available to all businesses?

AIA is available to all sizes of business whether you operate as a company, sole trader or partnership. However, a mixed partnership, being a partnership not comprising only of individuals, is excluded.

- A company is entitled to a single AIA for all its qualifying activities.
- A sole trader or a partnership has the potential to have a separate AIA for each qualifying activity that is carried on. This applies even if an individual has several businesses or is involved in several partnerships.

So for example if N and D are in partnership and run a catering business with premises in Coventry and N also operates a childcare nursery in Leicester, each business would be entitled to the AIA. But if both qualifying activities were undertaken by a single company, they would have to share one AIA allowance.

The AIA will also have to be shared in what are known as 'related' business situations. The detailed rules are not considered here but simple examples of those affected include:

- a group of companies
- businesses with similar activities controlled by the same person
- businesses which operate from shared premises and which are controlled by the same person.

Comment

These rules are aimed at ensuring that businesses are not artificially structured simply to obtain more than one AIA entitlement such as splitting one trade between 2 companies. However there will be a number of genuine businesses and independent companies which are caught by the rules so if you are involved in multiple business activities, you should consider obtaining advice on this issue so that your AIA entitlement can be established.

Expenditure not covered by AIA or ECA

Where expenditure is not 100% covered by AIA or because it attracts a 100% allowance on energy saving or water efficient equipment, it will either attract the 20% annual reducing balance allowance in the main pool or 10% allowance if in the special rate pool. For many businesses there will be an accounting period which straddles the changes and the annual allowance will be adjusted for that period. For a year to 31 December 2008 the principle is that 3 months will be at 25% the old rate and 9 months at 20% resulting in a hybrid rate of 21.25%. There is no hybrid rate for the special rate pool as it did not exist prior to April 2008, but a special hybrid rate will apply to the long life asset pool during the changeover period.

Small plant and machinery pools

Businesses will be able to claim a one off allowance of up to £1,000 in the case of both the plant and the special rate pool, once the unrelieved expenditure in either the main rate pool or the special rate pool is £1,000 or less. This is to get rid of the tedious situation in very small businesses where for example a main pool balance of £600 continues to be written off bit by bit each year by the annual allowance of 20%.

This measure has effect for chargeable periods beginning on or after 1 April 2008 for businesses within the charge to corporation tax and on or after 6 April 2008 for businesses within the charge to income tax. So if a self employed person prepares accounts to 31 May, the first relevant period to which this new facility could be applied will be the year ended 31 May 2009.

Business cars

The Budget 2008 included announcements about proposed changes to the basis of capital allowances for car purchases from 1 April 2009. The current position on car purchases until then is:

- Cars with CO₂ emissions up to 110 grams per kilometre (gm/km) qualify for the 100% ECA irrespective of cost.
- Cars costing up to £12,000 are included in the general plant pool and

get a 20% annual allowance only. The AIA cannot be applied against such purchases whereas it is available on vans.

- Cars costing more than £12,000 (so called expensive cars) have to be allocated to a separate single asset pool which will qualify for the annual allowance of 20% but with a maximum allowance on each car of £3,000. On disposal of each separate asset an extra allowance is available on any overall net cost.
- Any cars used by the self employed are also separately allocated to a single asset pool so that any private use element can be restricted. This does not apply to employee provided cars.

From 1 April 2009 the annual allowances are to be dependent on the CO₂ emissions position of the car rather than the cost. The proposal states that cars between 110-160 gm/km will get an annual allowance of 20% whereas cars in excess of 160 gm/km will only qualify for 10% in the special rate pool.

Comment

The proposals clearly reduce the annual allowances available on many business car purchases. It would also appear that the advantage of obtaining an extra allowance on a disposal to cover overall net cost will be lost in the pool balances carried forward. If this is the case it will particularly impact on companies and other businesses which provide employees with cars.

Since the Budget 2008 no further detail has yet been issued in the form of draft legislation so please get in touch for any updated guidance as to how this may impact on your business.

Summary of the changes to buildings

For many businesses there is no relief for expenditure on the premises from which they operate but the main buildings allowances which have been available were Industrial Buildings Allowances (IBAs) and Agricultural Buildings Allowances (ABAs)

There have been two major changes to both IBAs and ABAs:

- from this tax year 2008/09 the annual allowance on industrial buildings (including hotels) and agricultural buildings will be gradually phased out, with final withdrawal of both regimes by April 2011 and
- to prepare the way for final abolition, on a disposal of such buildings most balancing adjustments are withdrawn from 21 March 2007. A balancing adjustment was a method of either giving the seller an additional allowance or clawing back allowances.

Whilst some businesses may benefit from the second change if they now sell a building where IBA or ABA have been claimed (there will be no claw back of allowances previously given), the first change is bad for all businesses concerned.

As stated above the rate of annual allowance will reduce over the period from April 2008 to April 2011 when the allowances will disappear. In 2007/08 or Financial Year 2007 for companies, the allowance was either 4% of original cost or a specially recalculated amount following a purchase or sale. The entitlement will be reduced as follows:

2008/09	75%
2009/10	50%
2010/11	25%
2011/12	0%

Example

Company X had an entitlement of £72,000 IBA in the year to 31 March 2008. This will now be £54,000 (75% of £72,000) for the year to 31 March 2009.

So what do I do now?

These changes are fundamental to many businesses. Please get in touch with us as soon as possible to discuss how we can maximise any allowances for your business.





This briefing explains in outline the new rules which have been introduced from 6 April 2008 to deal with the taxation in the UK of income arising outside the UK, for non UK domiciled individuals.

These rules are very complex and detailed advice should be sought on individual situations.

UK Tax and Non-Domiciled Individuals The New Rules

What was the position?

Until 5 April 2008 an individual who was resident in the UK but was either not domiciled (referred to as 'non-dom') here or was not ordinarily resident here enjoyed what is termed the 'remittance basis' in respect of income and capital gains arising outside the UK. What this meant in practice was that instead of being taxed on the actual income/gain arising in the year they were taxed on the amount of that income/gain actually brought into the UK in the tax year.

Example

Jan, who is domiciled in Poland but who has been living in the UK for a number of years, has rental income arising from the letting of property in Poland. In 2007/08 the income amounted to £5,000 but Jan only brought £1,000 of that into the UK leaving the remainder in Poland. He will be taxed in 2007/08 only on the £1,000 remitted.

The advantages of non-domiciled status were further enhanced by the very narrow definition of what constituted a remittance – essentially limited to the transmission of cash or cash equivalents. If then overseas income/gains was converted into other assets, and those assets were then brought into the UK, they did not constitute a remittance. Other planning routes could be exploited to ensure that the UK tax liability of the non-dom was kept to a minimum.

So what has changed?

In essence two major changes have taken place and have been enacted in the Finance Act 2008. These will apply from 6 April 2008. Firstly, the remittance basis will not be given automatically to those who are non-doms or not ordinarily resident and secondly, the rules which determine what constitutes a remittance have been considerably tightened. These changes mean that every non-dom must now give very careful consideration to their UK tax position and take extreme care in planning their overseas income and capital gains.

Claiming the remittance basis – all taxpayers

The starting point of liability for all non-doms is that overseas income/gains are taxable on the arising basis just as they are for any UK domiciled individual. The non-dom will have the option of making a claim for the remittance basis to apply, but if they make this claim, they will automatically forfeit their personal allowance for income tax purposes and their annual exemption for CGT. This will obviously impact on their total tax liability including any UK income/gains.

The main situation where a non-dom will be able to benefit from the remittance basis without making a claim and will therefore retain their allowances is when they remit to the UK all but a maximum of £2,000 of their income and gains arising abroad in the year.

Example

Lets take Jan again as our example and pose two different scenarios for 2008/09 assuming his overseas income is still £5,000.

Scenario 1: He remits £1,000 to the UK – he can pay tax on the full £5,000 as it arises and he will retain his personal allowance against that and any UK source income. If he claims the remittance basis he will pay tax on £1,000 but will lose his personal allowance against that and any UK source income.

Scenario 2: He remits £3,000 to the UK. He can have the benefit of the remittance basis and pay tax on only £3,000 because he has left no more than £2,000 unremitted. He will retain his personal allowance.

Claiming the remittance basis – long term residents

What is a long term resident?

Matters become more complex and serious when an individual falls within the definition of a long term UK resident. This will arise when the individual has been resident in the UK in seven out of the nine UK tax years preceding the one for which liability is being considered. For these purposes a part year of residence counts as a full year. In considering the position for 2008/09 it is necessary to look at the individual's UK residence position going back as far as 1999/00 (i.e. to 6 April 1999). If they have been UK resident for at least seven of those years then they will be classed as a long term resident for the purpose of the remittance basis.

Example

Jan first came to the UK in July 2001. He will be classed as resident here from 2001/02 which will mean that he meets the seven year rule and will therefore be treated as a long term resident in 2008/09. If his residence had not commenced until July 2002 he would only have six years of residence and would not become a long term resident until 2009/10.

Continued overleaf >>>

What are the implications of being a long term resident?

Essentially the long term resident (who must be 18 years of age or over at some time in the tax year concerned) can only claim the benefit of the remittance basis if they pay an additional £30,000 in addition to the tax on any income or gains remitted. This sum is known as the 'remittance basis charge' (RBC).

The rules surrounding this charge are complex but the 'bare bones' are as follows:

- the charge effectively represents tax on unremitted income or gains
- the non-dom nominates specific income/gains to represent this charge
- the sums nominated cannot then be charged to UK tax even if they are subsequently remitted to the UK in a later year
- the nominated income/gains are deemed to be remitted only after all other unremitted income/gains have come into the UK
- tax on the sums nominated may be eligible for relief under a double tax agreement (DTA).

The RBC is not avoided where there is a failure to nominate specific income/gains and such failure may result in duplicate or higher taxation in future years.

Example

Let us assume that Jan is a long term resident. He can only secure the remittance basis for 2008/09 if he pays the RBC. Clearly it would be nonsensical for him to pay that charge to avoid tax on say £4,000 of income which was unremitted. He will therefore not elect for the remittance basis and will pay UK tax on the full £5,000 of income arising in Poland. If that income has been subject to tax in Poland he may be entitled to set any Polish tax against his UK liability.

Example

Sergio is a very wealthy Spaniard who has been living in the UK for many years. He is a higher rate UK tax payer. In 2008/09 he has income of £200,000 arising in Spain and also makes a capital gain of £150,000 on the sale of a Spanish property. He remits none of this to the UK in 2008/09.

He claims the remittance basis and obviously has no liability on remitted income because there is none. He will have to pay the RBC of £30,000 and must nominate income or gains to represent this sum. He could nominate all of the capital gain and that would represent £27,000 of the charge ($£150,000 \times 18\%$), he could nominate an additional £7,500 of income for the balance ($£7,500 \times 40\% = £3,000$).

That would satisfy the RBC and would mean that all the gains and £7,500 of the income would not be taxed if it is subsequently remitted. It would also mean, subject to the terms of the UK / Spanish DTA, that he may be eligible for relief in respect of any Spanish tax on these sums.

What is a remittance?

The rules to determine a remittance have been widened and HMRC take the view that whatever method an individual may use to bring income or gains into the UK will be caught. Again these new rules are very detailed and it is only possible here to give a brief outline.

Relevant person

This is a new concept. Essentially a remittance can be caught if it is for the benefit of any person who, in relation to the taxpayer (ie the non-dom with overseas income/gains), is within the definition of a relevant person. That list includes:

- the taxpayer
- their spouse or civil partner
- a partner with whom they are living as a spouse or civil partner

- any child or grandchild under 18 years of age
- a close company in which any relevant person is a shareholder
- a trust in which any relevant person is a beneficiary.

Basic concept of a remittance

Two conditions must be in place for a remittance to arise. Firstly property, money, or consideration for a service, must be brought into the UK for the benefit of a relevant person and secondly, the funds for that property etc must be derived directly or indirectly from the overseas income and gains. These rules are much wider than the old rules. Some examples will help to explain the scope.

Example

Alex, a wealthy Canadian lives in the UK with his wife and young children. He has a significant bank deposit in Jersey which generates a large amount of income each year. Any of the following uses of that income would constitute a remittance for UK tax purposes:

- he buys an expensive car in Germany and brings it into the UK
- he opens a bank account in the UK for each of his children with funds from Jersey
- he sends his wife on an expensive weekend at a spa and the bill for the break is sent direct to Jersey for settlement
- he uses a credit card in the UK which is settled on a monthly basis out of the Jersey income.

There are some exceptions for example clothes, watches and jewellery for personal use and other goods up to a value of £1,000.

A more indirect route is also caught

In the past it had been possible to use a route known as 'alienation' to avoid the remittance basis. This would involve an individual giving someone else their overseas income and then that individual bringing the money into the UK. In the recipient's hands it would have represented capital and the remittance would have been avoided. Now such a route is not possible. Any attempt at 'alienation' which involves the funds ultimately being brought into the UK for the benefit of a relevant person will be caught as a remittance by the taxpayer. This rule is likely to cause some difficult situations.

Example

Alex gifts some of the Jersey income to an adult son. He uses the money to pay for a UK school trip for his own son. The grandson is a relevant person as far as Alex is concerned and this payment will constitute a remittance on which Alex is taxable in the UK.

Other issues

There are a number of other issues covered by the rules such as:

- transitional arrangements to deal with property acquired before 6 April 2008
- transitional arrangements to deal with payment of interest on overseas loans used to fund the purchase of a UK property
- the identification of remittances from mixed funds
- dealing with gains arising in offshore trusts.

As can be seen from this brief review, the new rules are wide ranging and complex. The non-dom now needs to take great care in how they organise their overseas assets and in particular cash funds. Ideally pure capital funds should be kept clear of any income so that they can still be used as a means of tax free remittance. Each individual situation is going to have different problems and we would be happy to meet with you to discuss how the new rules impact on you and the steps you can take to mitigate their impact.



Tax implications of an overdrawn director's account

A key fact to get to grips with when you run your own company is that the company is a separate organisation and the money is not automatically your money. You cannot draw funds from the company bank account, or ask the company to pay for your personal expenses, without some tax and accounting implications. These are not new issues and we have covered them in previous publications but as such transactions continue to attract HMRC scrutiny we hope you find this refresher useful.

When you do take money from the company, that payment has to be treated as:

- salary - which must be taxed under PAYE and is subject to national insurance when it is made available to you; or
- dividends - which must be approved by the members and be paid out of the existing taxed profits of the company; or
- a loan - which does not create an immediate tax charge but may do so if the total amount borrowed exceeds £5,000 at any point in the tax year.

The legal rules covering transactions with directors, including loans, have historically been complex. The Companies Act 2006 introduced some much needed simplification in this area. In this article we focus on the tax implications of such transactions, there are currently no plans to simplify.

A loan may be made up of cash drawings, but may also include the value of personal expenses that the company has paid for on your behalf. To avoid these expenses being treated as employer provided benefits, or as salary payments, and creating high tax and national insurance charges for both you and the company, the company may charge the value through your director's account in the company's books. This is done to ensure you are treated as repaying the expense incurred to your employer. As a result the 'charge' can quickly lead to an overdrawn director's account.

Interest charge

When you borrow more than £5,000 there will also be an employer benefit charge on the basis that you have had an interest-free loan. You will be required to pay tax on the

interest you should have paid on the loan, which is calculated at 6.25% per annum. This tax charge applies where you borrow more than £5,000 for any period whether five months or five years.

Implications for the company

A loan made to a director should be cleared within nine months of the company's year end. If you do not do so the company must pay an extra corporation tax charge equivalent to 25% of the amount of the loan. That tax charge will be set-off against the corporation tax payment due following the accounting period in which you finally repay the loan. The tax charge on the company is in addition to the employer benefit charge on you personally.

The tax issues are complex and we recommend you contact us for advice before extracting funds from your company which may result in overdrawn directors' accounts.

When the cheque isn't in the post: preventing late payment

Late payment is a growing problem for businesses. According to a recent study, 59% of small and medium-sized enterprises encounter difficulties with outstanding debts - with 33% claiming that clients' failure to pay on time risks the survival of their business.

Smaller firms are particularly vulnerable to the effects that late payment can have on cash flow, profitability and ultimately the viability of a business. If you want to avoid falling victim to the 'late payment culture', consider the following strategies.

Credit check your customers – Failure to research the credit history of both new and potential customers could leave your business at risk of late or even non-payment. Minimise this threat by conducting the necessary checks with the customer's bank, a credit reference agency and some of their suppliers. Further financial information may be obtained from Companies House, the Institute of Credit Management and local media.

It is also advisable to monitor your customers' payment trends on an ongoing basis, as this may allow you to spot potential problems before they develop into something more damaging.

Publicise your terms and conditions – Clearly print your terms and conditions for payment on all relevant documentation that is sent to new and potential customers. Terms should clearly state the payment period for any invoice – settlement is often expected within 30 days, although this may vary depending on the type of business.

Promote a positive payment culture – To encourage customers to pay on time, you could consider offering small discounts for the early settlement of bills. If a customer is having problems with their payment, you may want to negotiate a deal with them. However, be wary of excuses – if they tell you the cheque is in the post, ask for further details, such as the cheque number and the date of posting.

Invoice on time – Distribute invoices in a timely manner to ensure the payment process

remains as efficient as possible and prevent unnecessary delays by addressing the invoice to the correct contact and department. If a client has not paid on time, it is essential to pursue payment.

Know your rights – Under the Late Payment of Commercial Debts Act 2002, businesses have a statutory right to charge interest for the late payment of commercial debt, at a rate of 8% above the Bank of England's reference rate. You should make it clear that you will enforce these rights if an account becomes overdue. Should it come to the worst, seek legal advice about how best to pursue the debt.

Remember: customers who fail to pay their bills could jeopardise your business. Enforcing a fair but strict payment policy will protect your client relationships and your business in the long term.

We can work with you to help improve your debt collection and cash flow management procedures. Please contact us to arrange a review.



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How to Avoid Common VAT Errors

As your accountants, we have experience and expertise in a range of different fields and we often come across mistakes and misconceptions which can prove to be expensive. In most cases these could have been avoided. Consider the following crucial VAT tips.

Understanding registration limits

The most expensive VAT errors occur around the time of VAT registration. You do not have to become VAT registered if your taxable turnover (those sales that would be subject to VAT) is less than £67,000 for any 12 month period. It is vital that you check regularly that your sales remain within this limit. You can do this by keeping a rolling 12 month total of your sales, adding on your sales turnover for each month and deleting the oldest month. As soon as this total tops £60,000 you need to think about preparing to register for VAT, so ask us for assistance.

If your sales peak suddenly above the £67,000 limit, but your normal trading pattern would keep you below the VAT threshold, you must still tell HM Revenue and Customs. However, you can apply for exception from VAT registration if you can show that your sales would normally remain below £65,000.

Using the flat rate scheme

If you are new to VAT you may be attracted to the flat rate scheme, which should simplify the VAT records you need to keep. However, to use this scheme your taxable turnover (excluding VAT) must be less than £150,000 in the next year. In addition, your total business income (including VAT and exempt supplies such as rental income) must be £187,500 or less in the next year.

You must ensure that the flat rate percentage is applied to your total business income.

If you start to use the flat rate scheme within a year of becoming VAT registered, you can reduce the flat rate VAT percentage your business pays by one percentage point. This reduction only applies to the first 12 months of registration, not the first year of using the flat rate scheme.

Selling a business

When you sell a business, or even part of a business that could be operated separately, and the buyer is to use the assets in a similar business, VAT should not be added to the price of anything transferred in the same deal. Special rules apply if you are transferring a commercial property that may be subject to VAT, so great care is needed with all property sales.

Evidence for export

Where goods are shipped to a customer who is outside the EU, the goods will carry VAT at the zero-rate. But if you want to take advantage of this zero-rate you must take responsibility for exporting the goods and retain evidence that the goods were in fact exported within three months of the sale to the customer. If the customer takes responsibility for the physical exportation of the goods, you must obtain evidence of the export from that customer, otherwise you become liable for VAT on the goods at the standard rate.

These are just a few of the more problematical areas relating to VAT, so if you have any doubts or queries please ask us for advice.

The "pater" of... £££?

Under the Work and Families Act 2006 the government proposes to introduce additional paternity leave and pay. Under the proposals, if the mother returns to work at the end of her first six months of maternity leave, the father will be entitled to take up to six months leave. The total leave period is expected to be paid at the statutory rate currently £117.18 per week.

The government has also indicated that paid maternity leave would be extended from 39 to 52 weeks "before the end of this parliament". This was originally planned for 2009 implementation, but has been deferred for a year and is now expected to apply to babies due from April 2010.

