Tax newsletter

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- Budget summary;
- Changes to reporting and paying Capital Gains Tax on UK residential property disposals; and
- 2019/20 Self Assessment.

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COVID-19 tax issues and support

As businesses navigate the ongoing COVID-19 crisis, there are a number of issues they should be thinking about which can reduce tax liabilities, defer tax payments and free up cash. Set out below are the main points we recommend you consider from a UK tax perspective.

Corporate tax

Tax losses
You may wish to consider whether any tax losses will arise in the UK. These losses could be offset against tax paid in earlier periods, future periods or by group relieving these losses to other profitable companies (if the company is part of a group). Accelerating your compliance process and filing returns earlier than you may do so normally could result in prompt cash tax refunds for earlier periods. You may also wish to consider shortening your accounting period in order to quickly access available tax refunds for prior periods.

Quarterly instalment payments - 'large' and 'extra-large' companies
If your latest forecasts anticipate smaller profits such that your company's resulting corporation tax liability is less than expected, it is likely that you have overpaid your quarterly instalment payments. It is possible to take these revised profits into account for subsequent payments, or even request a repayment of overpaid instalments from HM Revenue & Customs (HMRC).

Capital allowances
Is there potential that you have under claimed capital allowances by not conducting a thorough review of your capital expenditure in previous years? If so, there are very few time limit restrictions in claiming capital allowances (if the asset is still owned) and it may be worthwhile carrying out this exercise in order to generate tax refunds in prior periods.

Time to Pay
All businesses can be eligible to receive support with their tax affairs through HMRC's Time to Pay service. This can allow businesses to extend the period of time to pay outstanding amounts of tax. Separately, the Government has confirmed that it will be cancelling penalties and interest where you have administrative difficulties. These arrangements are agreed on a case by case basis and are tailored to the individual circumstances of each business. HMRC has a dedicated helpline to assist (0800 024 1222).

Personal tax

Self-employment Income Support Scheme (SEISS)
HMRC have introduced the SEISS to help self-employed individuals (including members of partnerships) whose income has been negatively

impacted by COVID-19. In order to be eligible for the scheme those applying must:

- have submitted their 2018/19 self-assessment tax returns to HMRC by 23 April 2020;
- have traded during the 2019/20 tax year and have the intention to trade until 2020/21;
- be trading when applying for the scheme, or would be trading if it wasn't for COVID-19;
- have trading profits of less than £50,000 with more than half of total income coming from self-employment; and
- have lost trading profits as a result of COVID-19.

Those eligible will be entitled to a taxable grant of 80% of their average trading profits over the last 3 tax years (2016/17-2018/19) up to a maximum of £2,500 per month. This is currently available for 3 months and will be paid in one instalment. The grant will be subject to Income Tax and National Insurance Contributions but does not need to be repaid.

HMRC will contact those eligible for SEISS by mid May 2020 and invite them to make a claim. Once HMRC have approved the claim, payments are expected to be made by early June 2020.

Deferral of second payment on account

If you are due to pay your self-assessment income tax second payment on account on 31 July 2020, payment has now been deferred until 31 January 2021 with no late interest or penalties charged during the deferral period. This is automatic; therefore there is no need for you to make a claim to defer payment, although deferral is optional and you can still make your payment by 31 July 2020 if you wish to do so.

Employment tax

Job Retention Scheme (JRS)

The JRS has been introduced to support employers whose operations are severely affected by the COVID-19 outbreak, and who cannot maintain their current workforce. Employees can be kept on the payroll and their employer will receive a grant to pay 80% of their regular wages plus the associated employers National Insurance Contributions (NIC) and pension contributions up to a monthly cap of £2,500.

The scheme is open to all UK businesses with a UK bank account and a UK PAYE payroll scheme as at 19 March 2020. Employees can be furloughed if at 19 March 2020 they were on a UK payroll and have been included on a Real Time Information (RTI) submission. The scheme is open for a minimum period of 3 months and employees must be furloughed for a minimum period of 3 weeks.

IR35 deferral

Changes to the off-payroll working regime which were due to come into effect on 6 April 2020 have been deferred until 6 April 2021 due to COVID-19, giving businesses an additional 12 months to make the necessary changes.

These changes are set to align the rules for 'off payroll working' for medium-large private sector entities with those already applying to public sector entities. As a result of the deferral, until April 2021 the responsibility for determining status and assessing IR35 will remain with the contractors/personal service companies for all private sector contractors.

VAT

Deferral of VAT payments

There will be an automatic deferral of VAT payments for all UK VAT registered businesses. VAT payments arising between 20 March and 30 June 2020 will be deferred until 31 March 2021. Businesses who pay by direct debit should cancel this with their bank as soon as possible.

In relation to payments on account, any deferred amounts will be treated as having been paid for the purposes of calculating the balancing payment.

In all cases, VAT returns must still be filed on time as normal. HMRC have said that VAT refunds and reclaims will continue to be paid as usual.

Import VAT

Import VAT due on goods imported from outside the EU is not automatically deferred. However, if you import regularly you should consider applying for a duty deferment account, which enables you to defer paying your import VAT and customs duty until the 15th day of the month after the import occurs.

Duty deferment account holders who are experiencing severe financial difficulty as a result of COVID-19 can contact HMRC for approval to enter into an extended period to make full or partial payment, without having their guarantee called upon or their deferment account suspended. This is to be applied for on a month by month basis and will be based on your financial position at the time.

Registered importers who pay cash or an equivalent and are facing severe financial difficulties can also contact HMRC to request an extension to the payment deadline at the time the payment is due.

Making Tax Digital (MTD)

The Government has also extended the 'soft landing period' in which VAT registered businesses must comply with the second phase of MTD. The new deadline is the beginning of the first VAT period starting on or after 1 April 2021.

Optimising VAT cash flow

Whilst the Government has announced a number of welcome measures to support the economy through the COVID-19 pandemic, many businesses will still be seeking further ways to improve their overall cash flow position:

- if a business is regularly in a VAT repayment position, there may be a cash flow benefit in switching to monthly VAT returns;
- VAT bad debt relief may be claimed on debts that have been outstanding for more than six months and are written off in the accounting records as a bad debt;
- businesses should now consider making earlier EU VAT refund claims and making claims for shorter periods rather than a whole year, thereby bringing payment dates forward; and
- ensuring effective management of VAT, e.g. accelerating recovery of VAT on purchases, ensuring that output tax is not being accounted for too early, identifying VAT incorrectly blocked on purchases or seeking to identify where VAT is being accounted for at the incorrect rate.

International

There has been restricted global travel and some countries have strict isolation rules. As a result, some cross-border employees are now working from home in a different tax jurisdiction or stranded overseas. There are also large construction projects being paused, with sites unable to open due to lack of staff, being unable to implement social distancing rules or not being deemed an essential service which may have an effect on the tax status of the business.

Remote working has become the new normal recently, with most employees creating home office spaces to complete their duties. Depending on the employee's job role and the permanency of a home office, there are cases where a permanent establishment for corporation tax purposes may arise where the employee is based in a different jurisdiction. Such cases are common where staff live and work near the border. As a result, the company could be required to complete branch accounts and allocate profits to the overseas jurisdiction. Fortunately, the new Organisation for Economic Co-operation and Development (OECD) guidance and HMRC agree that the short-term nature of the employee working from home should not create a taxable presence for the company.

Activities on construction sites are being temporarily interrupted by the COVID-19 crisis. Generally, a construction site creates a permanent establishment where the contract is longer than 6-12 months, depending on the jurisdiction. Where there are temporary interruptions to the contract, such as material or labour shortages, these are not able to be deducted from the length of the contract. The OECD have recommended that COVID-19 interruptions should still be included in calculating the length of the contract; therefore, it is likely that more sites could trigger an overseas permanent establishment and become chargeable to tax in another jurisdiction.

Companies should consider each case on its own merits as there is not a 'one size fits all' solution.

Budget summary

On 11 March, Chancellor Rishi Sunak announced the UK's Budget 2020. We summarise the key points here.

Corporate tax

In line with the Conservatives' election pledge, the proposed reduction of the corporation tax rate to 17%, which was due to apply from 1 April 2020, did not go ahead. The corporation tax rate remains at 19%.

Structures and Buildings Allowances
Businesses that incur qualifying expenditure on the construction, renovation or conversion of non-residential structures and buildings may claim Structures and Buildings Allowances (SBA) at a new rate of 3% from April 2020.

Research and Development Expenditure Credit
The current general rate for the Research and Development Expenditure Credit (RDEC) will be increased by 1% this year from 12% to 13% of qualifying R&D expenditure.

Corporate capital loss restriction
As announced at Budget 2018, companies' use of carried-forward capital losses will be restricted to 50% of capital gains from 1 April 2020. The previous £5m deductions allowance for trade losses has been extended to now include capital gains. Transitional arrangements will apply where an accounting period straddles 1 April 2020.

Personal tax

Entrepreneurs Relief
Following much speculation and calls for the reduced capital gains tax rate of 10% for entrepreneurs to be abolished, the previously generous lifetime threshold of £10m has been curtailed dramatically to its 2008 introductory level of £1m.

The inclusion of anti-forestalling rules within the legislation was unexpected and may negate tax planning designed to 'bank' Entrepreneurs Relief ahead of the Budget through use of unconditional contracts and share for share exchanges.

Pensions
As expected, there were changes to pensions tax relief. Following an increase in the thresholds, those individuals with an income of between £110,000 and £200,000 and adjusted income between £150,000 and £240,000 will no longer be impacted by the tapered annual allowance, effective from 6 April 2020. This was widely anticipated as the NHS has been under pressure with higher paid medical staff restricting their working hours to avoid the pensions tax charge.

The minimum level that the tapered annual allowance can be reduced to from 6 April 2020 is reduced from £10,000 to £4,000.

Personal allowances and thresholds
The Personal Allowance has remained frozen at £12,500 and there have been no changes to the personal income tax rates or bands for 2020/21.

In line with the government's commitment to align the thresholds for Income Tax and NIC, the NIC threshold has increased from £8,632 to £9,500 from 6 April 2020.

Employment tax

Employment Allowance
The Employment Allowance, which may be deducted annually from qualifying Employer's Class 1 NIC liabilities, has increased to £4,000. However, this is now restricted from 6 April 2020 to those employers with an Employer's Class 1 NICs liability under £100,000 in the previous tax year.

There will also be a new Employer's NIC holiday where staff have been employed from the Armed Forces for the first year of employment.

National Minimum Wage
From 6 April 2020, the national living wage has increased to £8.72 for those over 25, £8.20 for 21 - 24 year olds and £6.45 for 18 – 20 year olds.

VAT and indirect tax

VAT
Digital books, newspapers, magazines and journals will be zero-rated from 1 December 2020, to bring the treatment of digital publications in line with their physical counterparts. In addition, from January 2021, female sanitary products will also be zero-rated.

Stamp taxes
From April 2021, a 2% Stamp Duty Land Tax (SDLT) surcharge on non-UK residents purchasing residential property in Northern Ireland and England will be introduced.

Other indirect taxes
A new Plastic Packaging Tax will be introduced from April 2022. This will be charged at a flat rate of £200 per tonne where plastic packaging that is not made from at least 30% recycled content is produced in the UK or imported into the UK.

Changes to reporting and paying Capital Gains Tax (CGT) on UK residential property disposals

From 6 April 2020, the disposal of UK residential property by individuals, trustees, personal representatives or partnerships must be reported to HMRC, and any capital gains tax due paid, within 30 days of the completion date. This is a significant acceleration of the deadline which has the potential to catch out many taxpayers.

Nothing changes, however, in situations where no tax falls due, either due to the utilisation of available tax reliefs or losses. This will mean that in the majority of cases, those selling their family home will not be caught by these rules as they will make use of Principle Private Residence (PPR) relief. If, however, PPR relief is not available for the full duration of ownership and some tax falls due, a return and payment will be required within 30 days.

It will be necessary to make a 'best estimate' of the capital gains tax due based on the information available at the time. The payment will essentially be a 'payment on account'; a deduction may be taken for the capital gains tax annual exemption and any capital losses available at the date of completion. The final calculation will need to be reviewed at the end of the tax year once full details of taxable income for the tax year, and other gains and losses, are available. The return can be amended, but only in respect of matters that occurred before the completion date.

Those who complete 'Self Assessment' tax returns must also include the disposal on their return, deducting the payment already made in determining their overall tax liability for the year. If it transpires that the payment made is incorrect, perhaps because income was higher or lower than anticipated resulting in the applicable rate of tax differing, this will need to be corrected via the 'Self Assessment' tax return.

HMRC will charge penalties for late submission and late payment, in line with the normal 'Self Assessment' penalty regime. HMRC have confirmed that they will not charge late filing penalties in respect of any disposals, under this new regime, reported by 31 July 2020, although interest will accrue if tax remains unpaid after 30 days.

Prior to 5 April 2020, such disposals for UK resident individuals did not need to be reported or paid until the 'Self Assessment' submission deadline of the 31 January following the end of the tax year of the disposal. Taxpayers, therefore, need to be aware of this change and seek advice in a timely manner, ideally prior to the sale, as complex calculations may be required and a Government Gateway user ID and specific agent authorisation is required to facilitate the online reporting.

2019/20 Self Assessment

As we have just moved into a new tax year it is the perfect time to turn attention to completing 'Self Assessment' tax returns for the 2019/20 tax year.

Early completion and submission may expedite obtaining tax refunds due, or at least provide clarification as to the tax position to assist with planning in these difficult circumstances. The second payment on account for 2019/20 which was due to be paid by 31 July 2020 has been deferred to 31 January 2021. While very welcome, this is likely to mean a higher than normal payment falls due on 31 January 2021.

The current lockdown situation is providing many of us with considerable additional time at home to complete all those jobs that we always put off, a category into which gathering tax return information tends to fall!

With working from home being the new norm, we would encourage the electronic submission of tax return information wherever possible.

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