A Matter of Tax

Spring 2019

Welcome

Pensions, employee benefits, “Live in workers”, new deadlines for SDLT, last chance for tax scheme settlement – current tax matters to consider!

Our Spring edition of A Matter of Tax covers a wide variety of topics for you to contemplate as these affect individuals and businesses alike.

Our articles can only give you a flavour of the issues, so please do seek further information and advice in relation to these articles from our team of tax specialists.

Peter Warren

In this issue

Subscribe

Subscribe to our newsletters and latest updates at www.rickardluckin.co.uk/subscribe

Pension health check

The month of April is a good time to review whether you can make sufficient pension contributions for the tax year ahead, and to check whether you are in danger of exceeding your annual pension contributions allowance which would lead to a pension contributions tax charge.

Your annual allowance is normally set at £40,000, expanded by any unused annual allowance from the previous three tax years. However, a lower money purchase annual allowance (MPAA) of £4,000 may apply if you have accessed your pension savings from a defined contribution (money purchase) pension scheme.

The MPAA does not apply if you took your benefits as:

- a small pot lump sum;
- a pension commencement lump sum where no pension income was taken; or
- income from a capped drawdown arrangement.

The MPAA is not expanded by unused annual allowance from earlier years and once the lower level of allowance is in place it cannot be removed. The MPAA was reduced from £10,000 to £4,000 on 6 April 2017, increasing the risk of exceeding the allowance in 2017-18 and later years.

We can help you clarify whether you need to pay a pensions tax charge in respect of your pension contributions.

Employee benefits

Happy employees are productive employees, but different individuals require varying benefits with their remuneration package. For example, Fred values a parking space close to work, but Mary prefers to have a bicycle, while Sid is attracted by a generous employer pension contribution.

If you offer Fred, Mary and Sid the same gross salary and allow them to sacrifice set amounts for the benefits they value, you could run into the tricky rules called optional remuneration arrangements (OpRA).

In essence, if employees forego some salary in order to receive a benefit, they are taxed on the amount of salary sacrificed rather than the value of the benefit.

There are exemptions from the OpRA rules for employer pension contributions and bicycles provided under a cycle to work scheme, which are both tax-free benefits. A parking space close to work is also a tax-free benefit but it is not exempt from the OpRA rules.

Mary and Sid will enjoy their tax-free benefits but Fred will be taxed on the salary sacrificed for the tax-free parking space.

The solution is not to offer Fred the choice of salary or parking space, but instead offer him basic salary plus parking space, take it or leave it. His employment contract will have to be carefully drafted to make it clear that no option was available.

Live-in workers

Where it is necessary for a member of staff to live at his place of work, such as a housemaster in a boarding school, the provision of accommodation is not treated as a taxable benefit for the employee. However, where it is only customary rather than necessary for a member of staff to live at or close to his workplace, the provision of accommodation will be a taxable benefit unless three conditions are met:

- the accommodation is provided for the better performance of the employee's duties;
- the employment is one in which it is customary for employers to provide living accommodation to a particular class of employee; and
- the employee is a representative occupier.

HMRC is paying particular attention to the customary test, which must be applied across the trade sector as a whole, not just to the specific employer. If fewer than half of employees in that type of employment are provided with living accommodation, provision of accommodation is not considered customary.

If you have staff who are not being taxed on employer provided accommodation, those arrangements should be reviewed without delay.

Loan Charge - Last minute!

Sometimes past decisions can come back to haunt you. If you were persuaded to take a loan in place of part of your pay in the past and you have not repaid it, you may now be liable to pay a new tax called the loan charge.

This charge applies if you have not settled the amount of tax, penalties and interest owed in respect of the loan scheme you used. HMRC has been writing to those taxpayers who were involved in such schemes warning that the loan charge will be due on 5 April 2019. If you have received such a letter you need to contact HMRC to reach a settlement before 5 April 2019. You will not have to pay all the outstanding tax in one go; HMRC will automatically offer you an arrangement to spread the payments over up to seven years if your current annual income is less than £50,000.

However, HMRC will charge forward interest of 4.25% on the outstanding amount, so it will be to your benefit to pay as quickly as possible. Any income tax you have already paid on the benefit-in-kind of having a low-interest or zero-interest loan should be deducted from the loan charge tax due.

We can help you negotiate a settlement with HMRC.

Tax rates and deadlines for property

New deadlines

The government has shortened the period for paying stamp duty land tax (SDLT) from 30 days to 14 days after the effective date for land or property transactions completed on or after 1 March 2019.

The deadline for submitting the land transaction return reporting the SDLT payable has also been advanced to 14 calendar days after the completion date, which does not allow much time to get the forms signed and submitted.

Beware of this new deadline if you are buying a property in England or Northern Ireland. The deadlines for paying land and buildings transaction tax (LBTT) for purchases in Scotland and land transaction tax (LTT) for purchases in Wales remain at 30 days from the completion date.

Rates

When a company buys a residential property for over £40,000 it must pay an additional 3% SDLT on the entire value. This supplementary rate also applies to buying a second home. If the property is not defined as 'residential' it is a commercial property and the extra 3% tax does not apply.

A derelict property which is in such a poor state that it is not suitable to be lived in at the time of purchase cannot be treated as a residential property for the purposes of SDLT. If you or your company buy a derelict home to develop you should not have to pay the additional 3% rate of SDLT on that purchase. This rule should also apply for purchases in Wales and Scotland, as LBTT and LTT have similar supplementary rates for purchases of second homes, although the additional rate of LBTT in Scotland increased from 3% to 4% on 25 January 2019.

Structures and buildings allowances

The cost of acquiring your business premises may be written off in your accounts, but for many years those costs have been disallowed for tax purposes so there is no tax relief until you sell the building.

In October 2018 the government introduced a new structures and buildings allowance (SBA) to relieve the costs of constructing or altering buildings to be used for business purposes. The costs incurred are spread over 50 years with a flat 2% of the total cost deducted from profits each year. A claim can only be made when the building is brought into use for the trade.

If the building is sold within 50 years, the new owner claims the remaining costs at the same 2% flat rate. The previous owner does not receive a balancing allowance. To calculate the gain or loss on disposal, the SBA claimed is deducted from the construction costs of the building. This has the effect of reducing the base cost for capital gains purposes and increasing the tax payable on the sale of the building.

The SBA cannot cover the cost of acquiring land or constructing or altering residential properties. The contract for the building works must be entered into on or after 29 October 2018.

Meet the Tax team

Ian Marrow
VAT Director
01245 254219
ian.marrow@rickardluckin.co.uk

Jamie Nice
Tax Director
01245 254250
jamie.nice@rickardluckin.co.uk

Kevin Thomas
Tax Director
01245 254245
kevin.thomas@rickardluckin.co.uk

Peter Warren
Tax Director
01245 254250
peter.warren@rickardluckin.co.uk

Click here
to view our full tax team

BASILDON
01268 548127

Suite 8, Phoenix House,
Christopher Martin Road,
Basildon, Essex
SS14 3EZ

CHELMSFORD
01245 254200

Aquila House,
Waterloo Lane,
Chelmsford, Essex
CM1 1BN

SOUTHEND
01702 347771

7 Nelson Street,
Southend-on-Sea,
Essex
SS1 1EH