TAX BRIEFING

SEPTEMBER 2019

Lever Bros & Co
CHARTERED ACCOUNTANTS & BUSINESS ADVISORS
(Founded 1920)

Lever Brothers & Co
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TRADING AND MISCELLANEOUS INCOME

Most businesses start small with a few occasional sales. Only once the trader is convinced that they can deliver the product or service effectively do they launch their business properly.

The issue is deciding when trading officially began for tax purposes: was it when the first sale was made, or on a later date when a viable business seemed possible? This commencement date drives the deadline by which income from the new business must be reported to HMRC.

The trading and miscellaneous income allowance (TMIA) is there to help. The TMIA can cover up to £1,000 of trading or sundry income per tax year, meaning that income is not taxable and does not have to be reported on a tax return. It does not matter when the income was received within the tax year; as long as the total amount is less than £1,000 it will qualify for the TMIA. However this only applies for income received after 5 April 2017.

The TMIA can cover up to £1,000 of trading or sundry income per tax year

Self-employed taxpayers must include income from all of their different trades and can only claim the TMIA if total sales are below £1,000.

If you have a hobby which is turning into a new business, please speak to us as soon as possible. If total sales are less than £1,000 there may be nothing to report, but once your business takes off you will need to have a system in place to record all the income and costs accurately.

WINDING UP THE COMPANY

Closing your business will normally involve winding-up your company and taking out any residual value as a capital payment subject to capital gains tax (CGT) at 10% or 20%. HMRC will accept this as long as you are not involved with the same or a similar business within two years.

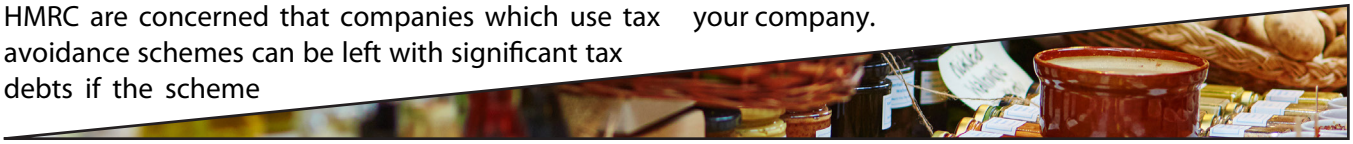
HMRC may view the revival of a 'dead' business in a new form as tax avoidance and can insist that the proceeds from the old business are subject to income tax at rates of up to 38.1% rather than to CGT. Therefore if you want to start up a similar business after a short break it may be better to sell your old company rather than liquidate it. We can advise you on how to do this.

HMRC are concerned that companies which use tax avoidance schemes can be left with significant tax debts if the scheme fails. At that point the company is insolvent so it is dissolved and the tax is never paid to HMRC.

The Government wants individuals connected with companies that have avoided or evaded tax to be made liable when the company is wound-up

The Government wants individuals connected with companies that have avoided or evaded tax to be made liable for the missing tax when the company is wound-up without paying amounts due to HMRC. Instead of the tax debt dying with the company the proposed new law would allow it to be transferred to directors, shadow directors and participators in the company who are shareholders but not directors.

This new law will take effect for periods ending after the day on which next Finance Act is passed in 2020. Please take advice before winding-up or liquidating your company.



TRIVIAL BENEFITS

Employees react well to little rewards from their employer, especially if the treat is unexpected and seen as a genuine "thank you".

These occasional trivial benefits can be provided tax-free if all four of the following conditions are met:

- the reward is neither cash nor a voucher that can be exchanged for cash;
- the cost of providing the reward does not exceed £50 per employee;
- the employee is not entitled to receive it through any contractual obligation; and
- it is not provided in recognition of services performed by the employee as part of their employment duties.

There is no limit on the number of trivial benefits provided to an employee in a single tax year

If, for example, the employer promises to provide bacon rolls to employees who attend an early training session every Friday, that would amount to a reward for performing duties connected with their employment.

If an employer decides to buy each member of staff an ice-cream on a hot day, that cool treat is not a reward for services as the employees are not required to do anything in order to receive it. The surprise ice-cream is thus a tax-free trivial benefit while the regular weekly bacon roll is potentially taxable.

If all staff are provided with a free or subsidised breakfast at the workplace that could be tax-free under the rules applying to a staff canteen.

There is no limit on the number of trivial benefits which can be provided to an employee in a single tax year as long as each item provided meets all of the conditions above. However each gift must be distinct and not part of another promise or item. If the employer gives each employee a gift card which is topped up at the employer's discretion, that gift card including all the top-ups counts as one gift.

Where trivial benefits are provided to a director of a close company or to a member of their family or household there is an annual cap of £300 on the value of items which can be treated as trivial benefits.

PLANNING TO SELL A HOME

If you are planning to dispose of your former home act quickly or you could lose some of the capital gains tax (CGT) relief available.

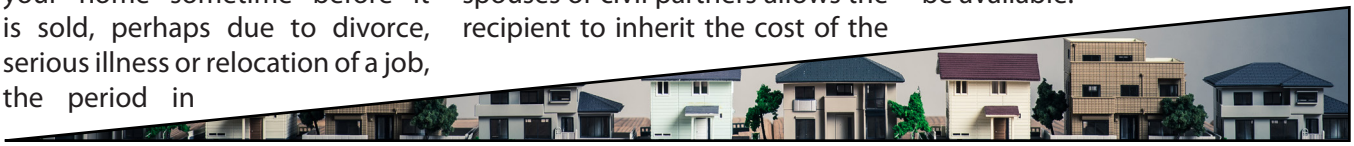
A former home which has been let out can qualify for up to £40,000 of lettings relief to cover the gain accrued during periods of letting. However for sales agreed from 6 April 2020 onwards lettings relief will only apply for periods when the owner was in occupation alongside the tenant. Periods during which the property was fully let will not qualify. This will retrospectively wipe out any accrued lettings relief for periods when a property was fully let.

If you have had to move out of your home sometime before it is sold, perhaps due to divorce, serious illness or relocation of a job, the period in which the property is not occupied generally does not qualify for the CGT exemption. Currently the last 18 months of ownership is treated as being exempt from CGT but this final exempt period will be reduced to nine months from 6 April 2020.

We can help you calculate the expected gain on the sale of your property and the reliefs which will be available

A transfer of a home between spouses or civil partners allows the recipient to inherit the cost of the property so that no gain arises on the transfer. This will not change, but for transfers made after 5 April 2020 the recipient will inherit the exemptions derived from the use to which the property was put during the period it was owned by the transferor spouse. This could reduce the main residence relief where a let property is transferred to a spouse and then becomes the couple's main home.

We can help you calculate the expected gain on the sale of your property and the reliefs which will be available.



CONSTRUCTION INDUSTRY REVERSE CHARGE

Most VAT registered builders who are also registered for the construction industry scheme (CIS) will be aware that a fundamental change in the way they calculated and administered VAT was planned from 1 October 2019 under the new reverse charge rules. From that date registered subcontractors would no longer charge VAT on their invoices to contractor firms. Instead the CIS contractor would account for VAT on the full value of its sales and purchases.

In a move hailed as a 'victory for common sense' the Government has announced a twelve-month delay to the introduction of the domestic reverse charge citing industry concerns and Brexit as the reasons behind the postponement. In a short briefing published via the HMRC website, the Government announced that the introduction of the domestic reverse charge for construction services would be put on ice for a period of twelve months until 1 October 2020.

The Government has announced a twelve-month delay to the introduction of the domestic reverse charge

You and your staff will need to understand when the reverse charge will apply to sales invoices and when it will not but thanks to the deferral you will now have time to plan and prepare for what is, for some builders, a dramatic change. If you would like to discuss how this change will affect you, get in touch with us and we can help you prepare.

AVOID VAT REGISTRATION

As a small business selling to individual consumers you will be acutely aware of the VAT registration threshold which has been frozen at £85,000 until at least 31 March 2022. But what happens if you temporarily exceed that threshold?

If you exceed the threshold but you expect your VATable sales to be less than the deregistration threshold of £83,000 in the next 12 months you can ask HMRC for an exception to VAT registration. We can help you with this but there is no time to waste; you must contact HMRC within 30 days of exceeding the £85,000 threshold. HMRC must be satisfied that the spike in turnover was a genuine one-off situation which will not be repeated.

If your turnover has exceeded the VAT threshold for a longer period and you have not registered for VAT there is no alternative but to register and incur the late-registration penalty. We can help you minimise this penalty by providing HMRC with calculations of the VAT due before they ask. In this case your late-registration error will be categorised as careless and the penalty could be reduced to zero.

If your 12-month turnover has already dropped below £83,000 we can ask HMRC to treat your period of VAT registration as ending on the date your annual turnover fell below that threshold. This will also reduce any late-registration penalty.

CLAIMING CASHBACK FOR R&D COSTS

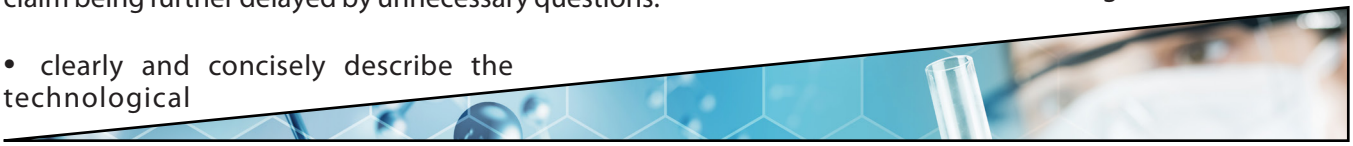
Companies that spend money on research and development (R&D) projects can claim an enhanced tax deduction amounting to 230% of the qualifying costs.

This can be a huge boost for a struggling business as it can wipe out taxable profits meaning that no corporation tax is payable and it may even create a loss for tax purposes. That loss is useful as it can be surrendered for a payable tax credit to set against other tax liabilities such as PAYE. You need to claim your payable tax credit and we can help you with that.

The section of HMRC which processes R&D claims has been very busy lately, so follow these tips to avoid your claim being further delayed by unnecessary questions:

- clearly and concisely describe the technological advances which your R&D project is attempting to achieve;
- carefully analyse all relevant costs relating to that project - we can check which costs will qualify - and exclude those which do not; and
- include your company's banking details.

The R&D claim is normally submitted as part of your corporation tax return but if that has already been filed we can submit the claim using an online form.



OFF-PAYROLL WORKING

HMRC refer to the IR35 rules as 'off-payroll working' to imply that every freelance worker should be paid through the payroll, which is certainly not the case.

For public sector contracts it is the engager who decides whether the IR35 rules apply to freelance contractors. This will also be the case for contracts with large and medium-sized private sector engagers from 6 April 2020. Smaller engagers (ie those with less than £10.2m turnover, less than £5.1m value on their balance sheet, or fewer than 50 employees) can continue to leave the IR35 question to the worker.

If IR35 does apply, income tax and employee's NIC must be deducted from the fee paid to the freelance contractor, but the fee-payer must pay employer's NIC to HMRC separately. In a chain with a larger engager the fee-payer will normally be the employment agency which pays the worker's personal service company.

The engager should consider the circumstances of each contractor separately and issue each contracted worker with a decision on IR35. The worker can object to that decision, giving the engager 45 days to respond, but in the meantime the engager must continue to apply the IR35 rules in line with its decision. The worker can choose to leave the contract and seek work elsewhere or request a higher gross fee to compensate for the tax and NIC which will be deducted from that fee.

The engager should consider the circumstances of each contractor separately and issue a decision on IR35

The new IR35 processes provide many opportunities for confusion and miscommunication. We can help you decide how the rules apply to you.

HOW TO AVOID A VAT PENALTY

When a business submits its VAT returns or VAT payments late, whether via MTD software or the old HMRC website, the business will enter the VAT penalty surcharge system.

Small businesses with turnover of less than £150,000 get one free pass, so will receive an advice letter from HMRC on the first instance of lateness.

All other businesses should receive a surcharge liability notice (SLN) when they enter the surcharge system. If a business repeatedly files VAT returns and/or pays VAT late the SLNs will continue to arrive and the penalties will mount up. These start at the higher of £400 and 2% of the late-paid VAT and increase each time an SLN is issued until they reach 15% of the late-paid VAT.

If you receive a VAT penalty out of the blue and you do not remember receiving an SLN, be sure to appeal

The penalty applies even if the VAT is paid just one day late.

If you do not receive an SLN you may not be aware that you are in the surcharge system. If you receive a VAT penalty out of the blue and you do not remember receiving an SLN, be sure to appeal against that penalty or we can do that for you. A penalty issued without an SLN is invalid.

HMRC do not always record exactly which address each SLN is sent to nor the date on which it is issued. Any review of your appeal against the VAT penalty should require HMRC to produce evidence of when the SLN was issued and the address to which it was sent.