This month's newsletter includes articles covering: when a hobby may be considered a business, rolling over taxable gains into replacement assets, a note of how long you need to keep tax records and current limits on claiming certain tax reliefs.

When is a hobby a trade?

We have received enquiries from a number of clients, concerned that HMRC is going to try and tax them for the small amounts of cash that they make from pursuing hobbies. For example, buying and selling on eBay or setting up stalls at their local drive in markets – car boot sales.

If you establish a regular pattern of making money in this way, and in fact turn in a profit, then you probably need to consider if your hobby is a business that you need to declare to HMRC. Each case needs to be considered on its own merits.

HMRC follows a number of guidelines called "the badges of trade" that help them reach a conclusion: is a part-time hobby, that creates an income stream, a business that needs to be declared on an annual tax return? These badges of trade are listed below:

1. An intention to make a profit supports trading, but by itself is not conclusive.
2. Is the asset of such a type or amount that it can only be turned to advantage by a sale? Or did it yield an income or give 'pride of possession', for example, a picture for personal enjoyment?
3. Transactions that are similar to those of an existing trade may themselves be trading.
4. Was the asset repaired, modified or improved to make it more easily saleable or saleable at a greater profit?
5. Was the asset sold in a way that was typical of trading organisations? Alternatively, did it have to be sold to raise cash for an emergency?
6. Was money borrowed to buy the asset? Could the funds only be repaid by selling the asset?
7. Assets that are the subject of trade will normally, but not always, be sold quickly. Therefore, an intention to resell an asset shortly after purchase will support trading. However, an asset, which is to be held indefinitely, is much less likely to be a subject of trade.
8. An asset that is acquired by inheritance, or as a gift, is less likely to be the subject of trade.

These criteria are not the only aspects of activity that will be considered. Please call if you are concerned that your hobby may be considered a trade.

Also, please note that from April 2017, the government is to introduce a new £1,000 allowance for property income and a £1,000 allowance for trading income. Individuals

with property income or trading income below £1,000 will no longer need to declare or pay tax on that income. Those with income above the allowance will be able to calculate their taxable profit either by deducting their expenses in the normal way or by simply deducting the relevant allowance. So, if your hobby does not produce income above £1,000, it can be ignored for tax purposes after 5 April 2017.

Deferring taxable gains until future sales

It may be possible to delay paying Capital Gains Tax (CGT) if you sell a business asset that is subject to a charge to CGT, but you use all or part of the proceeds to buy new business assets. The relief you can claim is called Rollover Relief.

This relief means you won't usually pay any CGT until you sell the new, replacement asset. Depending on the circumstances of the replacement asset sale, you may then need to pay CGT on the gain from the original asset.

You can also claim provisional Rollover Relief if you are planning to buy new assets with your proceeds of sale, but haven't done so as yet, or if you use the proceeds to improve assets you already own.

To qualify for Rollover Relief, the following circumstances must apply:

- you must buy the new assets within 3 years of selling or disposing of the old ones (or up to one year before)
- your business must be trading when you sell the old assets and buy the new ones
- you must use the old and new assets in your business

You can claim relief on assets including land and buildings, fixed plant or machinery – and space stations! The old and new assets don't have to be the same kind.

Different rules apply if you only reinvest part of the proceeds from selling the old assets, if the old were only partly used in your business, or if you use the proceeds to buy 'depreciating assets' (fixed plant or machinery, or assets expected to last for less than 60 years when acquired).

The devil as always is in the detail. If you are considering the sale of an asset that would normally be subject to a CGT charge, and you are aiming to replace the asset, we would suggest that you call to discuss the transactions to make sure you make the most of this relief.

How long do you need to keep tax records?

The length of time you need to keep tax records depends on the types of income you earn and the types of tax you are paying. A list of time limits is set out below:

Income Tax and Capital Gains Tax

1. **If you are not in business**
   One year from the 31 January following the end of the tax year. For 2016-17, you would need to keep your records until 31 January 2019.
2. **If you are in business – which includes rental income**
   Five years from the 31 January following the end of the tax year. For 2016-17, you would need to keep your business and other tax records until 31 January 2023.
3. **A company subject to Corporation Tax**
   Six years from the end of an accounting period. For the year ending 31 December 2016 you would need to keep records until 31 December 2022.
4. **VAT**
   You should keep records for at least six years.
5. **PAYE**
   You should keep payroll records for three years after the end of a tax year. For 2016-17 this would be until 5 April 2020.

These deadlines can be extended. For example, if:

- You file your return late.
- A return is subject to an enquiry or compliance check.
- Records relate to a transaction spanning more than one year.
- An asset is bought which is expected to have a life longer beyond the time limit.

Limits on certain claims for tax relief

From 6 April 2013, the total amount of certain Income Tax reliefs that can be used to reduce your total taxable income is limited to £50,000, or 25% of your adjusted total income, if higher.

The main reliefs subject to this limit are:

- trade loss relief against general income and early trade losses relief - claimed on the self-employment, Lloyd's underwriters or partnership pages
- property loss relief (relating to capital allowances or agricultural expenses) - claimed on the UK property or foreign pages
- post-cessation trade relief, post-cessation property relief, employment loss relief, former employee's deduction for liabilities, losses on deeply discounted securities and strips of government securities - claimed on the additional information pages

- share loss relief, unless claimed on Enterprise Investment Scheme (EIS) or Seed Enterprise Investment Scheme (SEIS) shares - claimed on the capital gains summary pages
- qualifying loan interest - claimed on the additional information pages

These restrictions do not apply to Gift Aid relief; nor pension contributions which have their own limits.

It is worth considering these restrictions as they may limit your ability to recover a proportion of cash lost by claiming a reduction in tax payable on future or past income and/or gains.

Tax Diary November/December 2016

1 November 2016 - Due date for Corporation Tax due for the year ended 31 January 2016.

19 November 2016 - PAYE and NIC deductions due for month ended 5 November 2016. (If you pay your tax electronically the due date is 22 November 2016.)

19 November 2016 - Filing deadline for the CIS300 monthly return for the month ended 5 November 2016.

19 November 2016 - CIS tax deducted for the month ended 5 November 2016 is payable by today.

1 December 2016 - Due date for Corporation Tax due for the year ended 29 February 2016.

19 December 2016 - PAYE and NIC deductions due for month ended 5 December 2016. (If you pay your tax electronically the due date is 22 December 2016)

19 December 2016 - Filing deadline for the CIS300 monthly return for the month ended 5 December 2016.

19 December 2016 - CIS tax deducted for the month ended 5 December 2016 is payable by today.

30 December 2016 - Deadline for filing 2015-16 Self Assessment tax returns online to include a claim for under payments to be collected via tax code in 2017-18.