This month's newsletter includes articles covering: a football agent that loses an appeal; how to claim back VAT on pre-registration costs; how to claim back pre-incorporation costs; and a few pointers that may highlight tax issues for home owners.

Football agent loses tax appeal

In a recent tax case, *Jerome Anderson v HMRC,* the First-Tier Tribunal denied a football agent relief for trading losses. The judges' arguments centred on the issue of whether he was carrying on a trade, and if he was, was it on a commercial basis with a view to making profits?

There is already legislation in place that restricts any relief for trading losses if the trade is not commercial. The facts of the case were as follows:

- Mr Anderson (Mr A) worked successfully as a football agent for many years, representing a number of big name players such as Dennis Bergkamp and Thierry Henry.
- In January 2009 Mr A paid £3 million to Bafana, a soccer academy in South Africa, through a scheme marketed by a Jersey company.
- In return for the money paid he was able to choose three players from the academy, securing an interest for himself in any future transfer fees.
- Bafana went into administration in 2011 and Mr A received no significant income.
- Mr A claimed trading losses of £3 million in his 2008/09 tax return.

HMRC disallowed the losses.

Despite Mr A's arguments that his activities under the Bafana scheme constituted a trade, and that he was more than a passive investor, the court agreed that the losses should be disallowed. Evidence pointed to a scheme to avoid tax rather than a genuine commercial undertaking.

Claiming back pre-registration VAT

The good news is you can reclaim VAT added to certain expenditure that was paid out prior to your business registration for VAT. HMRC's instructions on this issue confirm:

There is a time limit for backdating claims for VAT paid before registration. From your date of registration, the time limit is: 4 years for goods you still have, or that were used to make other goods you still have, and 6 months for services. It may also be possible to improve matters by backdating registration in some cases – although you would need to take into account potential output tax liability on sales not previously liable to VAT.

You can only reclaim VAT on purchases for the business now registered for VAT. They must relate to your 'business purpose'. This means they must relate to VAT taxable goods or services that you supply.

You should reclaim them on your first VAT Return (add them to your Box 4 figure) and keep records including: invoices and receipts, a description and purchase dates and information about how they relate to your business now.

You can't reclaim VAT for:

- anything that's only for private use
- goods and services your business uses to make VAT-exempt supplies
- business entertainment costs
- anything you've bought from other EU countries (you may be able to reclaim VAT charged under the electronic cross-border refund system)
- goods sold to you under one of the VAT second-hand margin schemes

You will need to reduce your claim if goods or services have a mix of business and private use. There are also special rules for reclaiming VAT on single pieces of computer equipment, aircraft, ships and boats costing more than £50,000; or land and buildings costing £250,000 or more (before VAT).

Claiming back pre-trading costs

Generally speaking, any business expenditure that you make up to seven years before you actually start trading, is treated for tax purposes as if it was incurred on the first day of trading.

This expenditure includes rent, rates, insurance, wages and other costs that you have had to pay.

You can also claim capital allowances for qualifying assets. Again, they are treated as being made on the first day of trading. However, assets that you have previously owned, that you introduce into your new business, will need to be valued at market value at the same date. These might include your car or personal computer.

Repairs can be a tricky item, as HMRC may want to treat them as improvements to your business property that were incurred to bring them to a working standard prior to commencement of trade. If they succeed in their argument HMRC would not allow a deduction as a revenue expense.

Repairs undertaken before commencement of trade should be allowed if the following three points apply:

1. The costs are regular maintenance rather than improvements.
2. The repairs were not incurred to make premises fit for trade.
3. The price paid for premises was not reduced to account for repairs to be made.

Tax and your home

If you use your home for business purposes, rent out parts of your home whilst you are still in residence or if you rent out your home while you are resident elsewhere, you may need to consider the tax consequences. This article covers some of the tax issues that you may need to consider:

Use of home for business purposes

If the amount of space you use is limited to say one room, and if there is a duality of use (for example you may have a home office in the corner of a spare bedroom or your office may double as a hobbies room), then you should be able to charge your business a nominal amount to cover the "running costs" of the space occupied. Your claim will need to be restricted on a time basis to disallow the private use proportion.

Claims that fit into this category should cause you no personal tax issues as long as they are based on a realistic apportionment of actual costs and are discounted for private use.

It will also be unlikely that you will suffer any charge to Capital Gains Tax when you sell your home.

Renting a room

From 6 April 2016, you can let out a room or rooms in your house as furnished accommodation (not an office) and as long as the annual rents received do not exceed £7,500 per year (prior to 6 April 2016 the annual limit was £4,250) you will have no Income Tax to pay. If the rent is more than the limit, then only the excess is taxable. The "normal" basis (rents less allowable costs) can be claimed if this produces a better result.

If two persons are entitled to share the rental income, the above annual tax-free limits are halved.

Longer term lets when you are not in residence

If you let out your home, for example if you work abroad for a period of time, you will be subject to Income Tax on your rental profits.

When you subsequently sell your home there may also be Capital Gains Tax considerations. When you sell, a proportion of any gain that relates to the period (or periods) of letting may be taxable.

However, provided the property was your home at some time, you can claim reliefs, including principal private residence relief for the time it was your main residence, plus the last 18 months of ownership. Also, there may be some "lettings relief" relating to periods your home was let as above.

Homeowners' private residence relief (for CGT purposes) is worth protecting. If you are considering any financial transaction concerning your home that you are concerned may have Income Tax of CGT implications, please call. It is better to sound out professional advice before the event…

Tax Diary October/November 2016

1 October 2016 - Due date for Corporation Tax due for the year ended 31 December 2015.

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

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

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

31 October 2016 – Latest date you can file a paper version of your 2016 Self Assessment tax return.

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.)

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