

# Ellacotts Tax Newsletter – June 2017

Our newsletter this month includes: a tax due reminder, advice if you are unable to settle future tax on time, when does a hobby become a trade, and claiming back pre-registration VAT.

Our next newsletter will be published Thursday 6 July 2017.

## Tax due next month

Are you self-employed? If you are, or if you are someone who doesn't pay all their tax at source, you may need to make your second payment on account for 2016-17, due date for payment is 31 July 2017.

This second payment on account will have been based on 50% of your combined Self Assessment tax and Class 4 NIC liability for 2015-16. Which raises an interesting question.

What if your estimated Self Assessment liability for 2016-17 is higher or lower than the liability for 2015-16? From a cash flow perspective, the outcome is win-win in both cases. Let's consider the two options in more detail from the self-employed viewpoint (who are the most likely to be affected):

### 2016-17 liability is expected to be higher than 2015-16

In this case your taxable profits will have increased, year on year, and after your January and July 2017 payments on account have been deducted, there will be a balance owing to HMRC. At present there is no legal requirement to add this underpayment to your July 2017 payment, in fact HMRC will not ask for any balance owed until 31 January 2018.

### 2016-17 liability is expected to be lower than 2015-16

In this case your taxable profits will have reduced, year on year, and if you make your January and July 2017 payments on account (based on the 2015-16 results) you will have overpaid HMRC. Again, there is no legal requirement to change your July 2017 payment, and HMRC would no doubt be happy to make use of your overpayment until they would be required to offer a possible refund on 31 January 2018.

However, if you find yourself in this position, you can make a formal application to reduce your 31 July 2017 payment.

Our advice, if you have a realistic expectation that your accounts on which your 2016-17 liability will be based (usually the accounts ending in the tax year to 5 April 2017) are lower than the previous year, then we should calculate the effect on your Self Assessment liabilities for 2016-17 and lodge a formal request to reduce your July 2017 payment on account, if appropriate.

## What happens if you can't pay your tax on time?

Following on from the previous article, we thought readers might be interested in the consequences if they fail to pay their Self Assessment tax on time.

If you are facing cash-flow issues, and cannot see how you can afford to settle part, or all of your tax payment due 31 July 2017, what is the best strategy to avoid confrontation with HMRC and minimise any penalties and interest charges?

Firstly, let's take a look at penalties. The trigger dates for penalties are 30 days, 6 months and 12 months after the tax became due for payment. On each of these trigger dates you will be charged a 5% penalty based on the amount of tax outstanding.

The current interest charge on unpaid tax is 2.75%.



If you are concerned that you may not be able to meet your liabilities as they fall due, and in particular, any payment due 31 July 2017, we recommend a two-pronged approach.

- Firstly, make a realistic estimate of when you can settle amounts due. This may be instalments or payment in full at a time after the due date.
- Secondly, call HMRC's Business Payment Support Service on 0300 200 3835, and agree an extended payment scheme with them. Generally speaking, they will agree as long as your suggested scheme clears any outstanding liability before your next liabilities become due for payment. They will also exhort you to gather funds such that you can settle future tax on the due dates.

What is inadvisable, is to bury your head in the sand and wait for the brown envelopes, telephone calls and debt collectors at your front door. Call the help line before the tax falls due and keep to your agreed settlement plan.

### **When does a hobby become a trade?**

An example may illustrate the answer to this question.

Harry updates his iPad and decides to sell his old one – he does not use the iPad for his employment or any business, it's used purely for recreational purposes. He sets up an account on eBay and manages to sell for a reasonable price. Encouraged, he sells a number of other, no longer used, personal items on the same eBay account.

At this point, it would be difficult for the tax office to argue that Harry was engaged in a trade.

Harry then has an opportunity to buy an iPad from a friend, and the price his friend wants is reasonable, so reasonable that Harry is tempted to purchase and resell on eBay for a quick profit. This he does. With a small profit in the bank Harry starts to consider that he may be onto a good thing and plans to buy and sell more items online.

Buying with an anticipation of selling in order to make a profit is a so-called "badge of trade", and if Harry continued with this activity he may need to register his online trade with HMRC and submit a tax return.

The criteria that HMRC will apply to decide if a hobby (sometime described as an adventure in the nature of a trade) is a trade are listed below. These are the badges of trade that will be considered by HMRC together with any relevant case law:

- profit seeking motive
- the number of transactions
- the nature of the asset
- existence of similar trading transactions or interests
- changes to the asset
- the way the sale was carried out
- the source of finance
- interval of time between purchase and sale
- method of acquisition.

We are waiting to see if a new Trading Allowance of £1,000 will be reintroduced after the election this month, if it is, Harry would not pay tax as long as the income from his eBay account did not exceed £1,000.

We would be happy to discuss this issue with any readers who are unsure of their present status. You should be aware that there may be penalties if you do not register a business activity with HMRC, file a tax return and pay any tax due.



## Claim back pre-registration VAT

It is possible to reclaim VAT you have paid on any business purchases before you have subsequently registered for VAT. In fact, once you have registered your business for VAT the first thing you should consider is the possibility of reclaiming input tax on purchases of goods and services prior to registration.

This article summarises the issues you will need to consider for the two categories: goods and services.

There's 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
- 6 months for services

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
- information about how they relate to your business now

If your pre-registration purchases and other costs are significant, this facility can produce a reasonable cash flow benefit. Please call if you would like our help to assess any possible claim you could make.

## Tax Diary June/July 2017

**1 June 2017** - Due date for Corporation Tax due for the year ended 31 August 2016.

**19 June 2017** - PAYE and NIC deductions due for month ended 5 June 2017. (If you pay your tax electronically the due date is 22 June 2017.)

**19 June 2017** - Filing deadline for the CIS300 monthly return for the month ended 5 June 2017.

**19 June 2017** - CIS tax deducted for the month ended 5 June 2017 is payable by today.

**1 July 2017** - Due date for Corporation Tax due for the year ended 30 September 2016.

**6 July 2017** - Complete and submit forms P11D return of benefits and expenses and P11D(b) return of Class 1A NICs.

**19 July 2017** - Pay Class 1A NICs (by the 22 July 2017 if paid electronically).

**19 July 2017** - PAYE and NIC deductions due for month ended 5 July 2017. (If you pay your tax electronically the due date is 22 July 2017.)

**19 July 2017** - Filing deadline for the CIS300 monthly return for the month ended 5 July 2017.

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