Ellacotts Tax Newsletter – August 2019

Welcome to the Ellacotts Tax Newsletter.

This month we look at:

- The VAT domestic reverse charge affecting the construction industry
- Will changes to the UK company car tax system spark more interest in electric cars?
- Missed the MTD deadline? You won't get penalised this time
- When is a van not a van for tax purposes?
- Life after Love Island – What are the tax implications if the couples split?
- Don't let your Inheritance Tax position overheat – check out our ice-cold tax tips!
- New Capital Gains Tax rules on the sale of residential property

If you have any questions or would like to discuss an article in more detail, please contact us.

The VAT domestic reverse charge affecting the construction industry

The reverse charge represents part of a government clamp-down on VAT fraud. According to the government, large amounts of VAT are lost through 'missing trader' fraud. As part of missing trader fraud, VAT is charged by a supplier, who then disappears, along with the output tax. The VAT is thus lost to HMRC. The construction industry is considered a particularly high-risk sector.

It is a business to business charge, applying to VAT-registered businesses where payments are required to be reported through the Construction Industry Scheme (CIS). It will be used through the CIS supply chain, up to the point where the recipient is no longer a business making supplies of specified construction services. The rules refer to this as the 'end-user'.

The reverse charge means that a contractor receiving a supply of specified construction services has to account for the output VAT due – rather than the sub-contractor supplying the services.

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The contractor then also has to deduct the VAT due on the supply as input VAT, subject to the normal rules. In most cases, no net tax on the transaction will be payable to HMRC.

The scheme is expected to operate as follows:

A VAT-registered business, receiving a supply of specified services from another VAT-registered business, for onward sale, on or after 1 October 2019:

- should account for the output VAT on supplies received through its VAT return
- does not pay the output VAT to its supplier on supplies received from them
- can reclaim the VAT on supplies received as input tax, subject to normal VAT rules

The supplier should issue a VAT invoice indicating the supplies are subject to the reverse charge. An end-user should notify its end-user status, so the supplier can charge VAT in the usual way.

Do you need advice on the VAT Reverse Charge?

The rules are complex so it's important to plan ahead now to get your business ready for the changes. Contact **Ann Bibby** on 01295 250401
or abibby@ellacotts.co.uk for help and advice.

Will changes to the UK company car tax system spark more interest in electric cars?

Changes to the UK's company car tax system will mean drivers choosing a pure electric car pay no benefit-in-kind charges from next year, but will this be enough to see more electric cars on the roads?

From April 2020, there will be no tax on a company car, if it is electric, or a hybrid, if it can travel 130 miles on a charge and emits emissions of less than 51 g/km.
The saving will benefit the company as the business will not have to pay Class 1A National Insurance.

While the zero rate only applies up to 5 April 2021, the Treasury has already set the rates that will apply in the following two years:

- 2021/2022 – 2% and hybrid cars must be capable of 150 miles
- 2022/2023 – 3% and hybrid cars must be capable of 150 miles

However, tax benefits to one side, there are still many practical considerations with electric and hybrid cars. Currently, hybrid cars have a limited range in electric mode. Purely electric cars also have the limitation that you need to plan your route around charging points and they need to be working and available when you turn up, so you don't run out of power.

In addition to this, you need to consider your employees' personal situations. They may not live in a location that enables them to charge their car overnight and have you considered making charging points available at your place of work for your staff and customers.

The company car is very much brushed over in planning conversations with clients now due to the tax bill it creates. Many who still have a company car may not understand the true cost to both them and the business or are very likely to be continuing due to the convenience of it.

On the face of it, the practicalities faced by car owners and businesses could be seen to still outweigh the tax savings. The shift in mindset and change of habits is not an easy task when many would argue the technology is still not where it needs to be for them to make the change.

Whilst this is a good move from the treasury, it is likely a lot more will need to follow, to make this a sustainable option for business and car owners in the future.

Are you thinking about swapping to an electric car?

If you are considering the benefits you provide your team and the most tax-efficient option for both your business and the individuals, our tax team can explain the options available to you.

For more information, contact **Ann Bibby** on 01295 250401 or email **abibby@ellacotts.co.uk**or **contact us here.**

Missed the MTD deadline? You won't get penalised this time

If you pay your VAT quarterly by direct debit the sign-up window has closed for the 7 August (30 June quarter) submission. Do not worry as HMRC have announced that you will not be penalised this time so you may file the old way and come back when the direct debit has been collected to sign up in time to file the next return. Although HMRC will not penalise you, they will send a letter telling you that you missed the deadline and asking you to take action.

Remember: Company officers are jointly and severally liable for the businesses VAT penalty

The decision in a recent tax tribunal case reminds us that directors and other company officers may be personally liable for VAT penalties of their company. The recent case involved a penalty for late registration for VAT where the threshold had been exceeded.

Three conditions must be satisfied before the liability for a penalty payable by the company can be imposed on an individual:

1. A penalty must be payable by the company for a deliberate failure.
2. The individual on whom HMRC seek to impose liability must be an “officer” of the company
3. The deliberate failure must be attributable to that officer.

If you need any help with filing your VAT for MTD please contact your usual Ellacotts contact or Derek Boughton on dboughton@ellacotts.co.uk or 01295 250401.

When is a van not a van for tax purposes?

HMRC are being urged to provide clarity and consistency on the tax treatment of commercial vehicles such as VW Kombi Vans marketed as goods vehicles. The need for clarity follows the ruling in an important tax tribunal case involving “vans” provided to employees of Coca Cola.

The court has upheld the HMRC view that certain vehicles are not goods vehicles but motor cars for Benefit in Kind purposes. Consequently, the Income Tax and National

Insurance payable by both the employee and employer is significantly higher than if the vehicles had been classified as goods vehicles.

Certain vans are exempt from Income Tax.

There is no assessable Benefit in Kind where the van is only used for business journeys or the private use of the vehicle is insignificant. Examples would include making a slight detour to pick up a newspaper on the way to work or taking an old mattress or other rubbish to the tip once or twice a year.

Income Tax definition of "goods vehicle"

The Income Tax legislation defines a "goods vehicle" as "a vehicle of a construction primarily suited for the conveyance of goods or burden of any description…"

Although the VW Kombi vans failed this test the tribunal held that Vauxhall Vivaro vans provided by Coca Cola did fall within the definition of goods vehicles.

It is understood that this case is due to be heard at the Court of Appeal which will provide legal precedent over the tax treatment. Until then it gives employers a dilemma as to how to report such vehicles on employees' form P11d and also whether the position in earlier years should be rectified. The tribunal itself had to seek evidence from automotive industry experts so how can employers be expected to interpret the rules?

What is also particularly confusing, and thus difficult for businesses to deal with, is that the Benefit in Kind rules are not the same as the rules for Capital Allowances and VAT.

Capital Allowances definition of "motor car"

The definition of a "motor car" for plant and machinery allowances purposes is 'a mechanically propelled vehicle except for a vehicle:

1. constructed in such a way that it is primarily suited for transporting goods of any sort, or
2. of a type which is not commonly used as a private vehicle and is not suitable for use as a private vehicle.'

VAT definition of "motor car"

For VAT purposes the definition of a motor car has been amended several times over the years. The current definition states: "Motor car" means 'any motor vehicle of a kind normally used on public roads which have three or more wheels and either:

1. is constructed or adapted solely or mainly for the carriage of passengers, or
2. has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows.'

There are a number of exceptions to this rule notably vehicles constructed to carry a payload of one tonne or more. A common example would be a "double cab" pick-up such as a Mitsubishi L200 or Toyota Hilux.

Do you need help on deciding whether your van is classed as a commercial van or a personal vehicle?

If you would like help navigating this complicated area, please contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401.

Life after Love Island – What are the tax implications if the couples split?

Now series 5 of Love Island has come to an end, you no longer have an excuse to leave the dishes and forget to put the bins out. In fact, can you even remember what you used to do with all that spare time? If this sounds like you then you are not alone, with bumper ratings, this year's Love Island was the most-watched ever with a massive 3.8 million viewers.

Spoiler Alert!

Amber and Greg were the surprise winners of the 2019 series, beating favourites Molly-Mae Hague and Tommy Fury in a shock twist, but you already know that! Whilst Love Island may be over for the viewers, it has likely only just begun for the contestants; as they grasp the opportunity for fame and fortune. The media will keep us updated on their blossoming relationships.

How will they cope outside of the Island, will the UK weather put a dampener on things, will reality sink in? Most importantly, if they do separate, are there any financial implications for them to consider?

For those ‘whirlwind romances’ that are bound to fizzle out, they will have likely continued to be very independent financially and simply go their own way. However, what about those that last some distance or those that certainly last long enough sit and watch series 6 and 7 together? Those that build longer-term relationships, whether they marry or not, there will be legal and financial implications if they were to separate.

There have been many recent cases reach the courts of couples who have separated and although were not married, have had to agree to settlements. Contributions to property lived in but perhaps only legally owned by one of the couple and cases where one partner may have had their career impacted to allow the other to progress theirs, have been successful in receiving a settlement.

In addition to the legal aspect and the financial involvement of separating assets, tax is also a significant issue on separation for both those who are married or in a civil partnership and those who are not.

Whilst not the most romantic reason to pop the question, marriage and a civil partnership do have many tax advantages but when two people split up, very quickly the position can change substantially. The timing of separation and seeking advice is critical to being able to consider some quite basic planning and avoid a tax headache. In addition, there are certain reliefs to prevent families from being in a disadvantaged position, such as relief in some cases that allow a couple to separate and one party purchase a new home whilst remaining owner of the old home, and not incur the additional SDLT 3% surcharge.

When it is already a difficult time, tax may be the last thing for a couple to consider however, it is important to seek specialist advice to ensure you understand your tax position, have no hidden surprises and do not miss the opportunity to save tax. In such a situation, ‘it is what it is’ is unlikely to cut it.

Would you like advice on how separating with your partner can affect your tax position?

If this blog has covered some areas you would like to discuss and better understand, then our tax team at Ellacotts are experienced in dealing with the tax consequences of separation.

Being able to provide professional advice in a sensitive manner at a difficult time. For more information please contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401.

Don't let your Inheritance Tax position overheat – check out our ice cold tax tips!

1. **Make a Will.** Ensuring you understand your tax position is key to passing on as much of your estate to the next generation as possible but, if you don't have a Will in place, it might not end up in the hands of those you want it to. Ensure you have a Will in place where you seek professional advice during the process and crucially, keep it up to date.
2. **Think of yourself.** Whilst you may wish to provide for your family and leave a legacy, don't sell yourself short. Assess your health and lifestyle and ensure you feel comfortable before putting planning in place that you may not be able to reverse.
3. **Don't leave any stone unturned.** When you have made the decision to address your estate, ensure you review and appraise all of your assets and legal documents. It is a big commitment in the busy lives that we lead, to focus on your personal finances, so when you do it, do it properly. One piece of missing information could significantly impact the advice given by your advisors.
4. **Consider making gifts.** Understand the exemptions and reliefs available and the different planning options which can involve immediate loss of control or retention of some control, and assess which you feel most comfortable with.
5. **Retain reliefs.** If you are entitled to valuable reliefs such as Business Property Relief or Agricultural Property Relief, then ensure your advisor explains the basis on which you are eligible for these reliefs and how they could be lost. The last thing you want is to lose valuable reliefs by taking an action which unbeknown to you impacts the relief.

6. **Protect your pension.** Pensions can often be exempt from Inheritance Tax and passed down to future generations. In light of this, consider taking an income from assets exposed to Inheritance Tax and preserving those that are exempt.
7. **Consider Whole of life Policies.** Such insurance policies can play a part in protecting your estate from Inheritance Tax. Some may choose to take a policy out to cover the majority of their liability and others will use this as part of their plan, either way, it is useful to understand how they may benefit you.
8. **Understand if Trusts have a role within your plans.** Often trusts can be seen as complex however, explained well, they don't have to be. Not only can trusts provide some tax savings, but they can also provide protection to ensure family wealth remains within the bloodline and protect against family breakdowns.
9. **Encourage your advisors to share their advice.** When dealing with your Inheritance Tax planning, you will often require a financial planner, tax advisor and lawyer. What you don't want is for them to work independently of each other. This can lead to miscommunication of who may be dealing with certain aspects and in cases, they could undo the benefits of each other's work. Allowing them to work together and looking at your estate holistically will ensure you get the best advice and ensure everyone understands their role and work together.
10. **It's good to talk.** Whilst discussing plans for when you are no longer alive can be difficult, not only for you but your family, if you can, try to talk to your family about your plans so they have some understanding. This will make things that little bit easier for them when dealing with your death. Having to unravel and locate documents and advice can add additional stress and costs. Even if you keep a record of all the relevant documents and details of the professional advisors who have been involved and tell your family where this is kept, it will ensure they have all the information they need and give you some peace of mind.

To discuss any of the above, please get in touch with Ann Bibby on abibby@ellacotts.co.uk or 01295 250401.

New Capital Gains Tax rules on the sale of residential property

Are you looking to sell a residential property? From April 2020 you will only have 30 days to pay your Capital Gains Tax (CGT).

The UK Government have decided they want to receive the Capital Gains Tax on residential property sales much sooner. So, the rules have been changed.

From April 2020, if you are a UK resident and dispose of UK residential property, you will need to pay your Capital Gains Tax and submit CGT returns, within 30 days of completion of the sale. For example, if the sale completes on 1 July 2020, the CGT will be due by 30 July 2020. Currently, you have either 10 or 22 months to pay CGT, so this is a big change.

What will happen if you don't pay CGT within 30 days?

There will be penalties and interest charged for failure to do so. HM Revenue & Customs (HMRC) have been communicating the change in rules. Therefore, it will be much harder if you miss the deadline, to successfully appeal against any penalties. Therefore, it's crucial you seek tax support to ensure you comply with the new rules. Ellacotts expert tax team can take the stress away and carry out the CGT return work for you.

The new rules apply to individuals, trustees and personal representatives. There are some exemptions in place with regards to certain sales, for example, the sale of your main residence.

Non-UK residents are already within this regime and from 6 April 2019, this was extended to apply to direct and indirect disposals of all UK land (whether or not a gain arises).

What should you do about the CGT changes?

Landlords have faced so many changes over recent years; the restriction to the mortgage interest relief, additional Stamp Duty Land Tax and the new regime for non-UK residents mean that the new payment regime is yet another cash-flow blow.

If you own property and you haven't yet had tax advice to understand how this will impact you and understand the planning options that are available, then Ellacotts would be happy to help. Our tax team specialise in property taxation for landlords and are well placed to advise.

Contact **Ann Bibby** on 01295 250401 or email abibby@ellacotts.co.uk or **contact us here.**