Ellacotts Tax Newsletter – July 2019

Welcome to the Ellacotts Tax Newsletter.

This month we look at:

- 31 July Deadline - How to reduce payments on account
- New Capital Gains Tax rules on the sale of residential property
- Office of Tax Simplification publishes Inheritance Tax Review
- HMRC publishes IR35 tax rules for the private sector
- Capital Gains Tax: Private Residence Relief and Letting Relief Changes
- Brownies are cakes and subject to zero-rated VAT in a recent case

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

31 July Deadline - How to reduce payments on account

Do you have a July payment on account to make soon? With the deadline fast approaching consider how you may be able to reduce it.

What are payments on account?

Payments on account are advance payments towards your tax bill, including Class 4 National Insurance if you're self-employed.
You have to make 2 payments on account every year unless:

- Your last Self Assessment tax bill was less than £1,000
- You've already paid more than 80% of all the tax you owe. This may be through your tax code or if your bank has deducted interest on your savings.

Each payment is half your previous year's tax bill and payments are due by midnight on 31 January and 31 July.

If you still have tax to pay after you've made your payments on account, you must make a 'balancing payment' by midnight on 31 January next year.

Is there anything I can do to reduce my payment?

If your income is likely to be lower in the following tax year, against which your payment on account will be offset, then you can reduce your payment on account, working out what your tax liability is likely to be.

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If your income and/or profit levels are going to be around the same level, then there may be other options you could consider to reduce your payments.
Three key options to consider:

1) Qualifying investments in Enterprise Investment Schemes (EIS)
These are investments that can provide a 30% Income Tax reduction, for the current tax year or previous. They also have a number of other tax benefits such as no Capital Gains Tax on sale, the deferral of Capital Gains Tax on proceeds reinvested into an EIS, exempt from Inheritance Tax after 2 years and the ability to claim relief for any loss made, if certain conditions are made. If you are interested in exploring tax efficient investments then you should discuss the EIS option with your financial adviser to find out if they are suitable for you.

2) Review how you extract profits from your business; undertake remuneration planning
The gap between the tax efficiencies of paying salary or dividends from a family company has narrowed and it is therefore vital families review their remuneration plans more regularly. One option could be; reduced income and greater company pension contributions which would support lower Income Tax bills and lower Corporation Tax bills. Naturally each shareholder will have different circumstances and therefore having a remuneration plan for each shareholder is important.

3) Review your property portfolio
If you have a property portfolio, then you should seek advice as the rules have changed significantly over recent years. How you hold the properties, and any income generating assets for that matter, will impact how much an individual, couple or family are taxed. You should explore that best structure in which to hold your properties and seek advice on the correct ownership, to support not only reducing Income Tax but other taxes such as Capital Gains Tax and Inheritance Tax.

HMRC system problems – don’t get caught out
If you are expecting to make a payment on account in July, but you have not received a demand from HMRC, then please speak to your advisor or HMRC directly. HMRC had issues with their systems earlier this year meaning some people will not receive the July demand and therefore likely to face bad news from

HMRC after Christmas. Don't get caught out by this and assume no news is goods, if in doubt that you have a payment due, find out before the 31 July deadline. The planning options within this blog are not exhaustive and with all the areas highlighted, planning will vary according to the specific circumstances of each case and of course an individual's personal and business goals. Therefore, advice should always should be sort.

If you would like to discuss your personal tax position and understand planning that may benefit you, then please contact Ann Bibby on 01295 250401 or email abibby@ellacotts.co.uk.

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.

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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.**

Office of Tax Simplification publishes Inheritance Tax Review

The Office of Tax Simplification (OTS) has undertaken a detailed review of Inheritance Tax (IHT), which is perceived by many as a complicated tax. The government normally takes account of OTS recommendations and their report is likely to lead to future changes to the rules. We will keep you posted as the changes may necessitate amending your will or further planning to pass on your wealth.

There are also numerous misconceptions about how the tax operates, particularly in connection with gifts during someone's lifetime. One of the proposed changes is to shorten the period for lifetime gifts to be exempt from 7 to 5 years. The OTS also recommended replacing the current £3,000 annual allowance, marriage allowances and the exemption for regular gifts out of income with a £25,000 personal allowance each year.

Capital Gains Tax

Although the OTS were tasked with simplifying inheritance tax, they also considered the interaction with CGT as many asset transfers potentially have both

CGT and IHT implications. Currently, there is no CGT on assets transferred on death and the recipient inherits the asset at its market value.

It has been suggested that the capital gains tax uplift on death distorts decision making relating to assets that benefit from an exemption from Inheritance Tax. Where an individual holds such an asset that has risen in value and is considering transferring it during their life, they are often advised to retain it until death rather than giving it away during a lifetime, because of the tax benefits. Where a business is retained until death, any potential capital gains are wiped out and there is no Inheritance Tax to pay. This could lead to an asset being retained rather than being transferred to the next generation at the time that is right for the business. We will again monitor the progress of this proposed change as it is likely to have significant implications on family business succession planning.

Inheritance Tax Relief for Businesses and Farms

There is currently a very generous 100% relief from inheritance tax for passing on businesses and farmland during lifetime and on death. The rationale for Business Property Relief (BPR) and Agricultural Property Relief (APR) is to enable businesses to be passed on without the need to sell off assets to pay the IHT due on the transfer.

Currently, if a business is wholly or mainly for the purposes of (in the nature of) investment, then it will not be eligible for BPR. This is not always straightforward to determine. Many estates include both trading and non-trading business assets, and establishing whether this test is met can be difficult to establish. The 'wholly or mainly' test is generally considered to be a greater than 50% test and the OTS are suggesting that the test should be aligned with the much stricter 80:20 test that applies for CGT gift of business asset holdover and entrepreneurs' relief. If introduced many more business transfers would be liable to IHT.

On the positive side, the OTS has recommended that IHT business property relief should be extended to include Furnished Holiday Lettings aligning the tax treatment with that of Income Tax and CGT where they are treated as "trading" providing that certain conditions are met.
If you would like any advice on any of these proposed changes please contact Ann Bibby on abibby@ellacotts.co.ukor 01295 250401.

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HMRC publishes IR35 tax rules for the private sector

The draft Finance Bill clauses issued for consultation on 11 July include legislation to extend the off-payroll working rules to the private sector from 6 April 2020. These changes will have significant implications for workers providing their services through personal service companies and also the end-user organisations that engage such workers.

End users will be required to determine whether the worker would have been an employee if directly engaged and hence the new rules apply to the services provided by the worker via his or her personal service company. This will be a significant additional administrative burden on the large and medium-sized businesses who will be required to operate the new rules. The current CEST (Check Employment Status for Tax) online tool would be improved before the proposed start date.

Small businesses exempt from IR35 rules

Small businesses will be outside of the new obligations and services supplied to such organisations will continue to be dealt with under the current IR35 rules with the worker and his or her personal service company effectively self-assessing whether the rules apply to that particular engagement.
The draft Finance Bill confirms that the definition of "small" is linked to the Companies Act 2006 definition.

This is where the business satisfies 2 or more of the following conditions:

- Annual turnover of £10.2 million or less
- Balance Sheet total of £5.1 million or less
- 50 employees or less

There will be an obligation to pass details of the status determination down the labour supply chain. The liability for tax and national insurance will be the responsibility of the entity paying the personal service company. However, if HMRC is unable to collect the tax from that entity, the liability will pass up the labour supply chain, thus encouraging those entities further up the supply chain to carry out due diligence.

Do you need help navigating the IR35 rules?

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Please contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401 if you would like to discuss how the proposed changes are likely to impact your business.
For more information about the IR35 rules please see our IR35 brochure.

Capital Gains Tax: Private Residence Relief and Letting Relief Changes

Draft legislation to be included in the next Finance Bill will make important changes to the calculation of Capital Gains Tax (CGT) Private Residence Relief. As announced in the Autumn 2018 Budget there will be a reduction in the final period exemption to just 9 months and stricter conditions for letting relief to apply.
Currently where a property has been the taxpayer's main residence, the last 18 months of ownership counts as a period of deemed occupation. This will be reduced to just 9 months for disposals on or after 6 April 2020. It is understood that this is being introduced to counteract "second home flipping" allegedly used by MPs when they sell their London residences.

Capital Gains Tax Letting Relief Restriction

Currently Letting Relief provides up to a £40,000 deduction in computing the capital gain on the disposal of a property that was at some time the taxpayer's main residence. The relief is the lessor of £40,000, the gain attributable to the let period, and the amount of Private Residence Relief. For a couple, this could potentially exempt up to £80,000 of the gain from CGT.

The draft legislation will limit this relief so that its only available in those cases where the owner remains in shared occupancy with the tenant, i.e. has lodgers living in the house.

What does this mean for you?

If you were hoping to take advantage of Letting relief on the sale of a property, you might want to consider disposing of the property before 6 April 2020 to take advantage of the current rules.
Contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401 for advice in this area as we can estimate the additional tax that might be due following the withdrawal of this generous relief.

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For more information about the tax implications of being a landlord please read our brochure.

Brownies are cakes and subject to zero-rated VAT in a recent case

Negotiating the VAT rules is a complex business. But one recent tax tribunal case – which the taxpayer won – made more entertaining reading than many.

Afternoon tea is one of those quintessentially British institutions, its beginnings usually traced to one of Queen Victoria's ladies in waiting. Complaining of a 'sinking feeling' mid-afternoon, the lady in question had a pot of tea and light bites brought to her dressing room. The rest, as they say, is (very British) history. So what more appropriate than to find the VAT tribunal debating the correct VAT classification of 'Raw Choc Brownies'?

The business involved had treated sales as standard-rated for four years but had since decided this was an error. It contended that the brownies should be taxed as zero-rated cakes, claiming a refund of around £300,000. HMRC claimed the brownies 'did not display enough characteristics of a cake so to qualify'. The business claimed the products 'were not sufficiently sweet to constitute confectionary'. The importance of this lies in the fact that in VAT law, cakes are generally eligible for zero rating as food items, whereas confectionary items are standard-rated.

The tribunal heard that the products were individually wrapped bars produced by cold compression of ingredients chosen to be as 'natural, unprocessed, hypoallergenic and as nutritionally beneficial as possible'. It deliberated on competitor brownies, Battenberg Bars, whole Victoria sponge cake, Tunnock's Tea Cakes, and Cadbury's Mini Rolls amongst a host of others. Manufacturing process, unpackaged appearance, taste, texture, how and when the bars were eaten, how they were marketed and how they behaved when removed from packaging, were all considered.

The tribunal decided the nub of the matter was whether an ordinary person would conclude they had been offered a cake when presented with the brownie. Would it look out of place on a plate of cakes? 'Put alongside a slice of traditional Victoria sponge, a French Fancie and a vanilla slice … the products may look out of place… put alongside a plate of brownies, or … at a cricket or sporting tea … the products would absolutely not stand out as unusual.' The decision paved the way for a sizeable VAT repayment.

The case reinforces the point that VAT rules on 'food' need careful attention to detail and that HMRC's interpretation of the legislation is sometimes open to challenge. Our dedicated Tax team have considerable experience in negotiating the technicalities of VAT.

Contact Ann Bibby on abibby@ellacotts.co.uk or 01295 250401 today to discuss your specific VAT challenges.

Is your business ready for the IR35 rules?

As the UK government push on with extending the off-payroll working rules in the private sector, the responsibility for determining whether the off-payroll rules apply will fall onto the organisation that is receiving the individual's services.

Read our guide on IR35.