Ellacotts Tax Newsletter – October 2019

Welcome to the Ellacotts Tax Newsletter.

This month we look at:

- HMRC postpone VAT reverse charge for builders until 2020
- Spanish authorities are clamping down on foreign property owners
- HMRC announce an extension of savings tax relief for trusts and estates
- Get ready for the off-payroll IR35 rules coming April 2020
- Review into disguised remuneration loan charge
- Don't forget there may be Tax to pay on your dividends in January
- New Capital Gains Tax rules on the sale of residential property
- Will changes to the UK company car tax system spark more interest in electric cars?

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

HMRC postpone VAT reverse charge for builders until 2020

HMRC has announced a one-year delay to the introduction of the VAT domestic reverse charge for building and construction services.

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.

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 2020:

- 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.

The charge was due to come into effect on 1 October 2019. It has now been delayed by 12 months until 1 October 2020. This was due to fears that businesses in the construction sector were not ready.
HMRC says it remains 'committed to the introduction of the reverse charge', and has put a robust compliance strategy into place in order to tackle fraud in the construction sector.

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.

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Spanish authorities are clamping down on foreign property owners

Property and overseas assets are two areas HM Revenue and Customs (HMRC) have focused on over the past few years, with campaigns encouraging the disclosure of omitted income. In addition to omitted income, we have also seen the introduction of the Trust Registration system, to ensure the UK authorities have transparency over what UK trusts are in place and who benefits from them.

Do you own Spanish property through a Limited Company?

News announced this month that the Spanish tax authorities are also clamping down on transparency of ownership in respect of property ownership in Spain; with the use of an Ultimate Beneficial Owner Register.

With over 5,000 Spanish properties owned by foreign investors, most of whom are UK residents, it is not surprising the Spanish authorities want clarity on who owns the properties. Previously the Spanish authorities were not concerned with international investors, but with public finances becoming stretched they are now showing a keen interest in this area and have even reviewed the definition of tax fraud under Spanish tax law, issuing a definition of aggressive tax planning.

Many of these Spanish properties are owned by foreign corporate structures as a way to minimise taxation. These will be the target of the Spanish authorities, especially companies created before 2018 that have not been assessed recently.

Spain introduces The Ultimate Beneficial Owner Register (UBO)

The Ultimate Beneficial Owner Register (UBO) will be the Spanish authorities' new weapon to tackle this. It came into force a year ago and the plan is that it will look through opaque structures in order to make clear who the ultimate beneficial owner is and that the properly accounted for. **Be careful – where this is not declared the company director will be legally responsible.**

The register is being rolled out across all EU Member States and data is shared without any prior consent. This rule requires owners of Spanish property to disclose the UBO in the yearly Corporation Tax Return, providing details of any shareholder who owns at least 25% of the share capital.

These changes are yet another reminder of the constant change property owners are facing and this time not only by the UK Government but other countries are wanting the same visibility in who owns what within their country.

The constant changes we face today means that even the most diligent are being caught out. Property ownership is more complex than ever before and it's crucial that your business advisors are supporting you with regular updates of change and taking action where required.

In summary, if you own property in Spain, through a corporate structure, you should seek advice from a tax advisor as soon as possible to ensure you are fully compliant to avoid any penalties or further action.

If you're a landlord who owns property elsewhere in the world, it's also important for you to regularly take stock of your properties. Take a look at where they are located and the structures in which they are owned to ensure changes do not adversely impact your position from both a tax and compliance perspective.

If you are a landlord and would like advice surrounding your property portfolio, then please do get in touch with Ann Bibby on abibby@ellacotts.co.uk or 01295 250401.

HMRC announce extension of savings tax relief for trusts and estates

The requirement to deduct tax at source on bank, building society and National Savings and Investments (NS&I) income was removed in 2016. Income from these sources is now paid gross.

For individuals, there are allowances dependant on whether you are a basic rate or higher rate taxpayer. Basic rate taxpayers can receive up to £500 in savings income before paying any tax and higher rate taxpayers can save up to £1,000 without being taxed. Additional higher rate taxpayers get no allowance.

For trusts and estates, this change has the potential for a greater amount of administration. Therefore, an interim arrangement was introduced meaning that trustees and personal representatives do not have to submit returns or make payments under information arrangements, where the only source of income is savings interest and the tax liability is below £100.

HMRC have now confirmed an extension to these arrangements to include both the 2019/20 and 2020/21 tax years and they will continue to review the longer-term position.

If you would like more information or advice on your savings, whether you're a trustee, personal representative of a trust or estate or an individual, please contact **Ann Bibby** on abibby@ellacotts.co.uk or 01295 250401.

Find out more about how we work with you to minimise your tax liabilities here. You can also read all our latest tax-related news here.

Get ready for the off-payroll IR35 rules coming April 2020

Are you paying your workers via personal service companies or agencies? You will need to operate new procedures from 6 April 2020 as HMRC bring in IR35 rules to the private sector.

How does it affect employees?

The new regime will affect you if you work via your own personal service company (PSC). If you are an off-payroll worker, you should be aware that your clients are likely to investigate the profile of their contractor workforce more closely than before. This will form as part of a general review of compliance, strategy and spend. But the changes could be felt more widely. Anyone supplying personal services via an 'intermediary' could be within the scope of the IR35 rules. An intermediary can be an individual, a partnership, an unincorporated association or a company.

The change could impact you if you supply personal services to large and medium organisations in the private and voluntary sector. If your client is a 'small' business, the rules are unchanged. A 'small' company meets two of the following criteria. Its annual turnover is not more than £10.2 million. It has not more than £5.1 million on its balance sheet. It has 50 or fewer employees. If you contract with an unincorporated organisation, the new rules only apply if its annual turnover is more than £10.2 million.

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Tax implications

Significant tax implications arise. If IR35 applies, the business or agency paying you will calculate a 'deemed payment' based on the fees charged by your PSC. Broadly, this means you are taxed like an employee. You will receive payment after deduction of PAYE and employee National Insurance Contributions (NICs). If you operate via a PSC, the PSC will receive the net amount. You will then receive without further payment of PAYE or NICs. The potential tax advantages of working under such a contract – especially for PSCs – are much reduced.

This is a good time to take stock of your options. Are clients likely to query your employment status? Should you consider restructured work arrangements, or renegotiating fees? If working via a PSC, is it still the best business model? With clients checking that contracts comply with the new rules, employment status for contractors is likely to come under increasing scrutiny across the board.

How do the IR35 rules affect employers?

Under the new rules, responsibility for making the decision as to whether IR35 rules apply passes to the business who uses the service. The key question is whether, if the freelancer's services were provided directly to that business, they would then be regarded as an employee. If you or your client use CEST, HMRC's online employment status check tool, HMRC undertakes to stand by the results if the information provided is accurate, and given in good faith. At present, however, HMRC considers CEST is unable to determine status in 15% of cases, and many commentators consider the failure rate much higher. HMRC is working to improve CEST.

The business will have to give you the reasons for the status decision in a 'Status Determination Statement' (SDS). If your worker disagrees, they can challenge the status determination. You should respond within 45 days, either withdrawing or upholding the decision, again supplying reasons.

HMRC announced on Friday 7 February that the IR35 rules will only apply to payments made for contracts that apply after the 6 April 2020. Previously, the rules would have applied to any payments made on or after 6 April 2020, regardless of when the services were performed.

What does this mean? Organisations will only need to determine whether the rules apply for contracts they plan to continue beyond 6 April 2020. Find out more about these changes here.

Do you need help with the IR35 rules?

Keep up to date with the latest IR35 news here. We would be delighted to talk through your options and the tax consequences. Please get in touch with Ann Bibby on abibby@ellacotts.co.uk or 01295 250401.

Download our free IR35 guide here.

Review into disguised remuneration loan charge

The Chancellor, Sajid Javid has commissioned a review of the Loan Charge to consider whether the policy is an appropriate way of dealing with disguised remuneration loan schemes used by individuals who entered directly into these schemes to avoid paying tax.

The disguised remuneration Loan Charge was introduced to tackle contrived schemes where a person's income was paid as a loan which did not have to be repaid instead of receiving salary, thereby avoiding tax and national insurance. Such schemes have now been successfully challenged by HMRC in the courts.

Disguised remuneration loan schemes were used by tens of thousands of people, and concerns have been raised about the use of the Loan Charge as a way of drawing a line under these schemes and collecting tax from the beneficiaries. The government is clear these schemes do not work and that their use is unfair to the 99.8% of taxpayers who have not used them.

Don't forget there may be Tax to pay on your dividends in January

The rules for taxing dividends changed radically from 6 April 2016 with the removal of the 10% national tax credit and the introduction of new rates of tax on dividends. For many taxpayers that means more tax to pay on dividends on 31 January each year.

If you are a higher rate taxpayer and received £22,000 of dividends in 2018/19, only £2,000 of those dividends are tax-free now leaving £20,000 of those dividends to be taxed at 32.5% meaning £6,500 due on 31 January 2020, and possibly payments on account of your 2020/21 liability.

We can let you know how much tax you need to pay next January so that you can set aside sufficient funds, and we may also be able to suggest some tax planning ideas to reduce your tax liabilities. Contact Nicola Harte on nharte@ellacotts.co.uk or 01295 250401 or contact us here for more information.

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.**

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.**