

# TAX E-NEWS

Monthly Update – May 2011

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Welcome to our monthly tax newsletter, designed to keep you informed of the latest tax issues.

We hope you enjoy reading the newsletter and remember - we are here to help you so please contact us if you need further information on any of the topics covered.

## CGT ENTREPRENEURS' RELIEF

This is available for qualifying business disposals and gets ever more attractive. The relief is in the form of a reduction in the CGT rate to 10% on the first £10 million of gains in certain circumstances (£5 million if the disposal was between 23 June 2010 and 5 April 2011; £2 million if the disposal was between 6 April 2010 and 22 June 2010, and £1 million if the disposal was before 6 April 2010). It is therefore now worth a maximum of a staggering £1,800,000 (£10 million taxed at 10% rather than 28%) per individual, so clearly any methods of making sure you qualify for the relief have to be carefully considered.

We will be pleased to offer advice on this increasingly valuable relief by reference to your specific circumstances, as it can apply not just on a business sale but also with care on the sale of an asset used in the business (such as the property from which the business is run).

There are new techniques available to maximise entrepreneurs' relief in the event of a business sale where there is an "earn out" element offered by the new owners, so that with care the complete package is subject to tax at only 10%.

## PENSION SCHEME ANNUAL ALLOWANCE CHARGE

If you are a member of a final salary pension scheme, the increase in your pension accrual on a year by year basis can result in an immediate tax charge.

This arises if, and to the extent that, 16 x the annual increase exceeds £50,000. The excess is then charged to tax at your top rate, via your self assessment tax return.

Under a new rule, if this annual allowance charge exceeds £2,000 it can be paid, by election, by 31 July following the end of the tax year from the pension benefit rather than via the self assessment tax return. If it is £2,000 or less there is the ability to pay the tax charge through the PAYE system so that effectively 1/12th is paid each month in the next tax year through the Notice of Coding.

## HMRC BUSINESS RECORD CHECKS

We mentioned this new initiative in the April edition of Tax E-News, but since then HMRC have scored another own goal by starting these checks earlier than originally planned. In addition, they have commenced these checks without telling anybody beforehand! This is hardly a customer-friendly move, and HMRC concede that they should have informed all concerned of their change of plan.

Rather than consulting fully with businesses before commencing the checks in autumn, HMRC have already started them on a "test and learn" basis. This means that no penalties will be charged if poor records are detected, although HMRC have failed to make this totally clear when notifying businesses that their records are to be checked. This seems to be another example of a high-handed and insensitive approach by HMRC, emphasising our message last month that you should urgently review your record-keeping to ensure it can withstand any new scrutiny.

### SHORT LIFE ASSETS

When claiming capital allowances on plant and machinery purchased in excess of the annual investment allowance limit, if the asset(s) concerned only have a short life they can by election be looked at separately. That is a very useful tool, as it means that when the asset is sold for a small amount (or perhaps more realistically scrapped) you get the balance of expenditure written-off for tax straight away.

The expected life to be a short-life asset increased from 4 years to 8 years from April 2011. Perhaps the best practical example of an asset this will benefit is a commercial vehicle, which ordinarily could be expected to last more than 4 years but not more than 8.

### RESEARCH AND DEVELOPMENT TAX RELIEF

If you undertake any research and development within your business, and operate as a limited company, you should look at the big improvements being introduced to this enhanced tax relief regime.

As from 1 April 2011, the relief is to be increased to 200% of the qualifying expenditure, up from 175%. Then from 1 April next year, and subject to EC State Aid approval, for every £1,000 you spend on R & D you will get tax relief on £2,250 = 225%. Well worth having!

There is currently a minimum expenditure level of £10,000 in a 12 month accounting period, but this to be removed from 1 April 2012. The definition of R & D is clearly vital to know. Basically it covers activities treated as such under generally accepted accounting practice. Under DTI guidelines it covers an activity which is seeking to achieve a significant advance in science or technology through the resolution of a scientific or technological uncertainty.

We will be looking to help you identify the scope for claiming this relief under the more relaxed regime, talking to HMRC specialist units where any doubts arise before submitting a claim on your behalf.

### USING YOUR OWN CAR AS AN EMPLOYEE OR DIRECTOR

A modest but nonetheless welcome increase in the mileage allowance on which you can claim tax relief applies from 6 April 2011. Instead of a maximum claim of 40p per business mile, you can now get 45p. However, as before, this applies only for the first 10,000 business miles in the tax year, with the excess mileage only qualifying for a mileage allowance of 25p per mile. If your employer will not pay as much as 45p, you can claim tax relief on the shortfall. If you receive more than the statutory rate, the excess is taxed.

If you drive your own car on a business trip and take colleagues with you, your employer (which of course includes your own company) can also pay you a tax-free 5p per mile per passenger. But if they won't do this you cannot claim tax relief on 5p per mile – confusing but typical when it comes to the tax system for employees!

Despite the increase, the system still penalises high business mileage employees driving a car of over 2 litres. This again raises the old question of whether it is better to have a company car, or whether to get a car allowance for your own car. If you have the choice, we will be pleased to advise you of what is the better option.

A self-employed person can also use these new rates as if your annual turnover does not exceed the VAT registration threshold (currently £73,000). You still of course have the option to claim actual business use expenses. The same situation applies to volunteer drivers to calculate the taxable profit on mileage allowances received from hospitals, social service agencies and other voluntary organisations.