

Newsletter November 2009

As we have reported in previous newsletters HMRC do not request information from taxpayers by email. You may have received the latest scam email purporting to be from HMRC which is headed "Notice of Unreported Income". The email links to a fake web site which encourages you to download a "Fraud Application". This application is simply a ruse to open a potentially damaging file on your PC.

This month we have also included articles on the current new business rates revaluation, changes to minimum wage regulations, a strategy for saving inheritance tax by utilising business property relief and the pitfalls of paying your private bills through a limited company.

Our next newsletter will be published on Tuesday 8 December 2009.

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New Business Rates Valuation

During October all businesses will receive their new business rates valuation. This valuation will form the basis of business rates for the next five years.

It is imperative that you check the fine print of the valuation to make sure that the rateable value applied to your property is correct. The rateable value is determined by a number of factors primarily the open market rental value on the valuation date. The valuation date for the 2010 changes is 1 April 2008.

Appeals against the new valuations should be submitted before the 30 November 2009.

Business clients should also be aware that there are a number of specific reliefs that you may be able to claim to reduce your business rates - these include small business rate relief (England and Wales) and transitional relief.

The Valuation Office Agency (VOA) website can be accessed at www.2010.voa.gov.uk/rli/en/basic and has a number of useful FAQ sections.

National Minimum Wage Changes

From 1 October 2009 the new National Minimum Wage rates are:

- Workers aged 22 years and older £5.80 per hour
- Workers aged 18 -21 years £4.83 per hour, and
- All workers under 18 years who are no longer of compulsory school age, £3.57 per hour

HM Revenue & Customs are responsible for monitoring the National Minimum Wage. It is they who will fine you if you fail to pay the correct rates. Currently fines are 50% of the underpayment due to workers subject to a minimum £100 fine and maximum £5,000 fine.

From 1 October 2009 employers cannot use tips to make up wages to the National Minimum Wage, regardless of whether employees receive them through the payroll or in some other way.

Business property relief

Hidden away in the inheritance tax (IHT) regulations is a relief that can have a significant impact on the amount of IHT payable by estates which include business property.

What is business property?

It includes:

- A business or interest in an unincorporated business, 100% relief available.
- A holding of shares in an unquoted company, 100% relief available.
- A controlling holding of shares in a quoted company (more than 50% of the voting rights), 50% relief available.
- Land, buildings or plant and machinery used in a business of which the deceased was a partner at the date of death or used by a company controlled by the deceased, 50% relief available.
- Land, buildings or plant and machinery held in a trust where the deceased had the right to benefit from the trust and the asset was used in a business carried on by the deceased, 50% relief available.

Businesses which are mainly "investment" businesses are excluded from the relief, but qualifying business assets can potentially make a significant difference to IHT payable. Consider the following example.

At the date of his death Alfred had assets of £1m in cash on deposit and shares in an unquoted trading company valued at £1m. The shares qualified as business assets. In his will he left the shares to his wife, who wanted to continue running the company and had her own cash assets. Alfred's cash deposits were left to his daughter.

In this case the transfer of the shares from husband to wife was free of inheritance tax charge so business property relief was wasted. However, the £1m in cash left to his daughter would create an IHT bill of £270,000. (£1m less nil rate band £325,000 at 40%)

There is a quite legitimate way to restructure the Will and pay no IHT at all on Alfred's death. As a direct result of the required estate planning, Alfred's wife would obtain ownership of the shares and the daughter would have £1m in cash instead of £730,000 (£1m-£270,000 IHT).

Action point

The facts in this example have been somewhat simplified to demonstrate the importance of IHT planning. If you have business assets in your estate it might be an idea to review your will to ensure that maximum relief can be claimed. If you would like to know how the planning works in the above example and if it would have relevance to your estate planning, please call.

Paying private bills through your company

Before we examine this issue from a tax perspective we need to emphasise the difference between limited companies and sole trader and partnership businesses in the way that they distribute taxed profits to the business owners.

Sole traders and partnerships are taxed under the self assessment rules. Profits are allocated as agreed by the business owners and tax is calculated on an individual basis based on this profit share. If sole traders or partners withdraw the retained profit after tax this is treated as drawings and not a business expense.

It is possible for sole traders and partners to draw out more than the balance on their current account, to become overdrawn, and suffer no tax consequence. Of course there is no long term future in doing this as funds needed for the business, will be dissipated and the business will drift towards insolvency. Businesses of this type pay tax on business profits, not the amount taken out of the business by the owners.

Limited companies and their owner directors are treated very differently. A limited company has a distinct legal identity of its own, quite separate from its shareholders/directors. Money that is withdrawn by the owners, in whatever way, always has a tax and possibly National Insurance consequence except as a repayment as a loan from a director.

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- salaried earnings or benefits, and/or
 - dividends

So if you pay your private bills through a limited company what happens?

If you already have money invested in your company that has been credited to a director's loan account in your name, then the payment of a private bill can be debited to this account, reducing the amount the company owes you. In this case there is no tax consequence.

If you do not have money invested in your company in this way, any private payments you make will create an overdrawn balance on your director's loan - you will owe the company money. Now there are tax consequences.

If your loan account does become overdrawn the following options and tax effects are available to you.

1. You repay the overdrawn balance. If this is done as soon as the payments are made there should be no tax to pay.
2. The company writes off the loan. The balance written off will be treated as your earnings subject to PAYE and National Insurance, or in certain circumstances, as a dividend.
3. The director's loan remains unpaid. A benefit in kind charge will be created equal to a statutory rate of interest for the time the loan is overdrawn in a particular tax year. This benefit can be avoided if the company charges your loan account with an equivalent interest charge. Unpaid director's loans can also create an additional corporation tax charge if the loan remains unpaid more than nine months after the company's year end. This extra tax can be reclaimed by the company when the loan is subsequently repaid, but there will be a delay.

Action point

If you need to overdraw your loan with the company it is better to plan for the tax consequences and perhaps find a more suitable way to extract funds from the company. Please call if you would like more information on this topic.

Tax Diary November/December 2009

1 November 2009 - Due date for corporation tax due for the year ended 31 January 2009.

19 November 2009 - PAYE and NIC deductions due for month ended 5 November 2009. (If you pay your tax electronically the due date is 22 November 2009)

19 November 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 November 2009.

19 November 2009 - CIS tax deducted for the month ended 5 November 2009 is payable by today.

1 December 2009 - Due date for corporation tax due for the year ended 28 February 2009.

19 December 2009 - PAYE and NIC deductions due for month ended 5 December 2009. (If you pay your tax electronically the due date is 22 December 2009)

19 December 2009 - Filing deadline for the CIS300 monthly return for the month ended 5 December 2009

19 December 2009 - CIS tax deducted for the month ended 5 October 2009 is payable by today.

DISCLAIMER - PLEASE NOTE: The ideas shared with you in this email are intended to inform rather than advise. Taxpayers circumstances do vary and if you feel that tax strategies we have outlined may be beneficial it is important that you contact us before implementation. If you do or do not take action as a result of reading this newsletter, before receiving our written endorsement, we will accept no responsibility for any financial loss incurred.

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Foot Davson is registered for VAT under reference 238810947.

Principals of the firm are members of the Institute of Chartered Accountants of England and Wales (ICAEW). This body has its headquarters in the UK and its rules of professional conduct can be obtained from its website. Foot Davson is authorised to act as statutory auditor by the ICAEW.

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