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SPRING 2011

New Tax Partner

We are delighted to announce the appointment of Matt Dawson as our new Corporate Tax partner. Matt joins us from ABC and Co where he headed up their tax advisory team for many years.

Matt specialises in corporate taxation and, in particular, transactions, restructurings, expert witness work and many other tax saving i
With a hugely successful track record in ta
focuses on creative yet practical solutions
clients which sets his apart from many othe
and helped him to win 'Accountant of the Y

In his spare time Matt runs marathons, sits on the local development loan fund panel and is a regular snowboarder and skier. He also enjoys renovating classic cars. Not your typical accou

Ann Ste

You can tailor the front cover to include your own news (including colour images) or add contact details to the articles we provide or simply leave the articles as they are.

Take care in ... the 50% rate

It is now well known that an additional rate of tax of 50% is to be introduced from 6 April 2010 for individuals whose taxable income exceeds £150,000. Individuals affected by this will no doub be looking for ways to reduce their tax liability.

One route which will certainly be examined will be to try to establish that a transaction falls within the capital gains tax (CGT) rules and is therefore taxable at only 18%. The gap of 32% is a very tempting one to consider but be aware that HMRC have a strong incentive to move the other way and may seek to turn 18% into 50%.

Where share transactions take place, there is some complex anti-avoidance legislation that can turn a capital gain into an income tax charge which has been in place for many years. This can apply where HMRC can show that the arrangements were not done for commercial reasons and

... is effectively ... cash is being extracted from company B's distributable profits to the shareholder and so what appears to be a capital gains tax transaction is, in substance, a dividend.

Land transactions can also be an area of contention. Suppose instead of buying land in their own name an individual uses a company to buy the land and develop the site. Then instead of selling the development in the company, they sell the shares in the company (the purchaser may also find this attractive for stamp duty land tax purposes). They think they have made a capital gain on the shares but HMRC have legislation which they can use to argue that this should be

eated as an income tax liability because if the d had been sold, there would have been a enue profit.

Where a land transaction is carried out directly by an individual, that individual may want to argue that it is a capital transaction. However, the definition of a trade for income tax purposes includes what is known as 'an adventure in the nature of trade' and there is a substantial body of case law which has established the characteristics of such an adventure which may lead to an income tax charge.

If you are planning significant one-off transactions you need to take advice before you start to ensure that these potential problem areas can be avoided, so do contact Matt Dawson on 0123 456789 or email matt@yourfirm.co.uk.

Avoiding travel turmoil

It is not just the physical battles of travelling during the winter months that can be problematic but also securing tax relief on those travelling expenses which continue to increase. Understanding the specific rules is vital to ensuring that HMRC challenges on motoring and related travel costs do not arise later!

The issue is often considered to be a problem area for employed individuals but this article focuses instead on the self-employed individual whether operating as a sole trader or as a member of a partnership.

What qualifies?

To qualify for tax relie… be wholly and exclusi… purpose of the trade. … is incurred for a non tr… purpose then it is not t… will be situations where… incurred for more than o… modern practice may al… using apportionment wh… identifiable part or propo… incurred wholly and exclu… trade. Fuel and other mo… generally apportioned bas… of business miles to total… critical to distinguish a bus… from a private one. The m… example of a private journey is the cost of travel from home to work which is generally disallowed.

Your corporate colour will be used for the headings throughout.

There are clearly some trades where home to work travel may be solely for the trade as there is no identifiable place of business operations. These are often referred to as itinerant trades. However, where there is an identifiable place of business operations, travel costs from home to that destination are not tax deductible as they are said to have a predominantly private purpose.

The site at which business records and equipment are kept and maintained does not necessarily equate to a place of business operations as a recent case has demonstrated.

Once a week, the taxpayer traded fast food from Chelford market. He had a trailer from which he operated and which he transported to the m… During the relevant… lso traded … one at … ock and … called … four … here … es. … nded … n and … r, … rmed by … ect of the Kendal and …kpool markets.

HMRC accepted that the costs of travel from his home to the yard should be allowed but refused the mileage costs between home and the markets on the basis that the place of business was the market place, principally at Chelford but also at Blackpool and Kendal.

The Tribunal agreed that the place of business was the market place and disallowed the costs of travel from home to the market including the travel costs from home to collect the trailer and stock on market days.

The case shows that when considering whether travel costs are allowable or not it is vital to establish the exact nature of the trade and how business activities are organised. If you have any concerns in this area please do contact us.

The Bribery Act 2010

The Bribery Act is due to come into force in April 2011 and will be applicable not only to all UK businesses, including their overseas operations, but also overseas businesses conducting activities in the UK.

The Act will replace the UK's common law and statutory offences related to bribery. Obviously larger entities (British Aerospace comes to mind!) will need to assess the impact very carefully, but it will apply to every entity regardless of size.

Amongst other offences such as active bribery and passive bribery, the Act will introduce a new corporate offence which will be committed if a person associated with a commercial organisation (such as a company or partnership) bribes another person with the intention of gaining financial or other advantage. Any such organisation found guilty of the offence will be subject to an unlimited fine and its directors could face a prison sentence of up to 10 years. The only defence for the organisation is if it can demonstrate that it had 'adequate procedures' in place to prevent bribery.

However, the Act currently offers no guidance as to what constitutes 'adequate procedures' and it is for this reason that the Ministry of Justice delayed the implementation date of the 2010 Act to April 2011, to allow for public consultation on this matter. In mid January it was announced that the Act is being reviewed but it has been suggested changes are unlikely. There is a possibility of a further delay in the implementation date and it is thought that there may be some amendments to the eagerly anticipated guidance on necessary procedures.

A draft version of this guidance is currently available from the Ministry of Justice website. This proposes a principles-based approach, referring to the following six principles:

- risk assessment
- top level commitment
- due diligence
- clear, practical and accessible policies and procedures
- effective implementation
- monitoring and review.

The draft guidance also offers a series of case studies covering a variety of situations, including the use of business partners and hospitality.

The key step is almost certainly the proposed risk assessment and every business needs to consider what their risks might be from April 2011. In many cases the risk will be very low but where it is not, appropriate procedures will need to be designed.

– iXBRL deadline approaching fast

In 2006 Lord Carter reported on his review of HMRC online services. He recommended that all statutory business tax returns should be filed electronically by 2012 and significant progress has been made. The next major milestone, which is nearly upon us, concerns corporation tax returns.

All corporation tax returns (including form CT600, tax computations and company accounts) in relation to accounting periods ending after 31 March 2010 and submitted after 31 March 2011, must be filed online as paper returns will no longer be accepted. In addition, corporation tax and related payments must be paid electronically.

It is important to appreciate that compulsory filing will not change:

- who has to file a company tax return
- when the return has to be filed or the tax paid
- what is legally required to be filed as part of a company tax return.

So what is going to change?

Specifically CT600 returns will have to be submitted electronically and XML (Extensible Markup Language) format together with the account tax computations in iXBRL (Inline Extensible Business Reporting Lan format. In broad terms tags are used to define both the content and the structure of data and operate in a similar way to bar codes. There are many thousands of different tags which are pre-defined using special dictionaries known as taxonomies.

These formats are computer-readable data standards for financial reporting statements. Extensible Business Reporting Language (XBRL)

...ments, regulators, companies and ...chine readable ...MRC can see

...port from:

...situations only)

...ange to corporation tax ...t it right first time. They have indicated that th... ...roach to penalties in the first two years of implementation where there ... ...asonable excuse and reasonable care has been undertaken.

If this is a matter where you require further information or advice please contact us.

Child savings accounts

For children born before 3 January 2011, a Government voucher was issued to open a child trust fund (CTF) account. This capital would then be invested in either cash or shares, with returns being tax free. The idea behind these accounts was to provide all children with a 'nest egg' for when they reached adulthood. Extra vouchers were issued when children turned 7, but these were withdrawn from 1 August 2010.

Vouchers at birth will not be issued for children born on or after 3 January 2011. However, any existing vouchers which have not yet been used to open an account remain valid. Existing accounts remain open and the tax free status will still apply. In addition parents, friends and family can contribute up to £1,200 in total per year. The registered contact can change the trust fund account type or provider at any time. The child can do this once they turn 16. When the child turns 18 the account stops being a CTF account and the money can be withdrawn or reinvested.

See www.childtrustfund.gov.uk for information.

So how can parents save for their children born after 2010?

Well, the Government is to introduce a new 'Junior ISA' to replace the CTF account. These new accounts will provide parents with a simple and tax free way to save for their children but without any contributions from the Government. The key features of the new account will be:

- All returns will be tax free.
- Funds placed in the account will be owned by the child and will be locked in until the child reaches 18.
- Funds can then be withdrawn without losing any of the tax benefits.
- Investments will be available in cash or stocks and shares.
- Annual contributions will be capped, although the limit has not yet been set.

The new accounts should be available in autumn 2011. Eligibility will be backdated from then to ensure that no child born after the withdrawal of the child trust fund vouchers will miss out on a tax free savings opportunity.

The key advantage of parents making contributions into a CTF account or a Junior ISA is the combination of tax free status and capital growth. More significant capital growth may be realised with a stocks and shares investment rather than cash investment alone.

If a parent instead provides capital in an ordinary bank account or makes share investments for their child, annual income in excess of £100 will be treated as taxable income of the parent. It therefore follows that significant tax savings could accrue over the life of a CTF or Junior ISA account.

Class 2 National Insurance Contributions (NIC) – the new payment arrangements

Class 2 NIC will be payable by the self employed at a flat rate of £2.50 per week in 2011/12. Currently, Class 2 NIC are paid by quarterly account billing or by monthly direct debit. This is set to change in 2011/12, to bring it in line with payments of income tax and Class 4 NIC.

There will be no collecti
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There will be an alternativ
2 NIC by two six-monthly
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following the end of the ta
paying monthly direct deb
this means the first paym
31 January 2012 and the second on 31 July 2012. The amounts of the monthly direct debits will vary between £10 and £12.50. The six-monthly payments will be £65 each.

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The new rates and
v.uk/rates/nic.htm

	10/11	2011/12
	571	£1,533
	259	£4,380
	59	£5,380
	3	£1,150
	£3,114	£3,323
£100,000	£3,614	£4,323

Due to the increase in the 0% band for Class 1 NIC, employees earning up to £23,800 will be paying less NIC in 2011/12 than in 2010/11.

Employees earning above this limit will see an increase in their NIC bill.

For the self employed, those with profits up to £19,000 will be paying less Class 4 NIC in 2011/12 than in 2010/11. Those with higher profits will see a rise in their Class 4 NIC liability.

If you require any further information about the NIC changes for 2011/12 do contact us.

Counting the cost

The rate of corporation tax your company pays not only depends on the level of profit it makes but also on the number of companies that are associated with your company.

For example, if a single Company S has annual profits of £200,000 it will pay corporation tax at the rate of 20% from 1 April 2011. This means that the corporation tax due on those profits, assuming they relate wholly to the year to 31 March 2012, will be £40,000.

Higher rates of corporation tax apply on profits in excess of £300,000 and £1.5 million. For profits between £300,000 and £1.5 million the effective corporation tax rate is 28.75% and for profits in excess of £1.5 million the rate is 27%. Both rates also apply from 1 April 2011.

The impact of associated companies

If a company has associated companies, the amount of corporation tax may be increased. This is because the profit thresholds of £300,000 and £1.5 million must be shared equally between the company and its associated companies. For example when a company has two associated companies, then there are three companies in total. This means that the corporation tax rate of 28.75% applies between £100,000 and £500,000 and then 27% thereafter. If this applied to Company S its corporation tax due would increase to £48,750 (20% x £100,000 + 28.75% x £100,000).

What is an associated company?

A company is associated
if one of them has control
are under the control of t
person(s).

The shares of direct rela
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attribution rule
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Changes ahead

However, a change to the associated company rules to be included in the Finance Bill 2011 may at least offer some relief to spouse controlled companies with effect for accounting periods ending on or after 1 April 2011.

It is proposed to amend the circumstances in which rights held by linked persons are attributed to each other to establish control. Attributions
here there is 'substantial
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er there is 'substantial
commercial
ence' HMRC will have regard to the degree of financial, economic or organisational links which exist, or have existed, or might be expected to exist between the relevant activities/companies involved.

If you consider these matters may affect you please do not hesitate to get in touch.

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