Tax E-News

WILLIAMS CHARTERED ACCOUNTANTS

November 2023

Welcome to our November 2023 newsletter.
We hope you enjoy reading the newsletter and find it useful.

SALARY OR DIVIDEND BEST IN 2023/24?

In recent years, many accountants advised their director/shareholder clients that the most tax efficient method of extracting profit from their family company was to pay themselves a low salary, at or around the £12,570 personal allowance, with the balance in dividends.

This strategy may need to be revisited with the introduction of ***higher corporation tax rates from 1 April 2023***, as company profits more than £50,000 are taxed at an effective 26.5% rate.

Where company profits exceed £50,000, it may be more tax efficient to increase the salary or put a bonus through the company accounts.

Other things to consider would be for the company to pay more into your pension or provide you with an electric company car, both of which can be tax efficient.

There are lots of factors to consider, including the level of profit and how much you need to draw out of the company to live on.

We would suggest that we set up a meeting with you a couple of months before the company yearend so that we can give you the best advice.

YEAR END TAX PLANNING IDEAS FOR YOUR BUSINESS

As mentioned above it is always a good idea to set up a planning meeting with us a couple of months before your business year end so that we can advise you on the best actions to take to reduce your taxable profits.

In addition to considering paying yourself a bonus from your company you might consider -

- Bringing forward expenditure on equipment to take advantage of the 100% ***annual investment allowance (AIA)*** – up to £1 million a year on new and used equipment.
- For limited companies, most new equipment qualifies for unlimited ***"full expensing" relief.***
- Where equipment is bought on hire purchase, make sure that it is brought into use by the year end to get tax relief on the full purchase price.
- Making additional pension contributions, taking advantage of the ***new £60,000 annual input allowance.***

NOT ALL LLP MEMBERS ARE SELF-EMPLOYED

Since April 2014 members of a LLP are no longer automatically treated as self-employed for tax purposes.

A recent case before the ***Upper Tax Tribunal*** has examined the tax status of 82 members of an LLP and found that most of them should be taxed as employees not self-employed. LLP members are treated as salaried members and taxed as employees where 3 conditions are present -

Condition A considers the way the individual is rewarded for his or her performance of services to the LLP. A Salaried Member will have a reward package that is largely that which an employee would have. This means they are being substantially remunerated through a fixed salary or a variable bonus based on their performance, rather than a share of the profits of the overall business.

Condition B is where the Member does not have a significant say in the running of the business.

Condition C looks at the capital contribution made by the member to the LLP. The individual will be a Salaried Member if he or she has invested less than 25% of their expected income from the LLP as a capital contribution. This will need to be reviewed on an annual basis.

The management structure of many larger LLPs will trigger Condition B, as the major strategic and operating decisions are taken by an Executive Committee of members. This means that most members would be treated as employees where Conditions A and C are also present.

If you operate as an LLP, we can review the status of the various members to ensure that they are taxed correctly. Where the member is taxed as an employee, PAYE and Class 1 National Insurance Contributions should be applied and the salary would be deductible in arriving at the LLP profit.

HMRC CHALLENGES LLP SCHEME FOR PROPERTY BUSINESSES

HMRC have recently published ***Spotlight 63*** which alerts taxpayers to a marketed tax avoidance scheme that claims to help taxpayers reduce the tax payable on their property rental profits.

The HMRC view is that the "hybrid" structure involving an LLP with individual and corporate members does not have the tax savings that the scheme promoters claim.

The scheme claims to enable buy-to-let landlords to transfer properties to the structure without paying capital gains tax (CGT) or stamp duty land tax (SDLT) and, once established, obtain a bigger deduction for their mortgage interest payments than they would have obtained if the property had remained in individual ownership.

It is also claimed that the "hybrid" structure saves inheritance tax when the property is passed on, which is ***incorrect*** as there is ***no IHT business relief for property investment businesses.***

Please take care if you are tempted to use a scheme that claims to save tax; talk to us first.

CHARGING ELECTRIC CARS AT HOME

HMRC have recently clarified their view of the tax treatment of the reimbursement of electricity costs where employees charge their electric company cars at home.

HMRC now accepts that reimbursing part of a domestic energy bill, which is used to charge a company car or van, is exempt from income tax.

Their previous view was that such reimbursements were taxable.

Note that the exemption will only apply provided it can be demonstrated that the electricity was used to charge the company car or van, which may be difficult to determine in practice.

Employers will need to make sure that any reimbursement made towards the cost of electricity relates solely to the charging of their company car or van.

It should be remembered that where the employee uses workplace charging facilities there is no taxable benefit.

It should be noted that HMRC have still not revised their view on reclaiming VAT in respect of business miles driven by an employee who has charged their car at home.

Regardless of whether the vehicle is a company car or the employee's own, the employer cannot reclaim the VAT because the supply of electricity is made to the employee, not the employer.

RECLAIMING INPUT VAT ON THE SALE OF SHARES

The sale of shares is an exempt supply for VAT purposes, which means that input VAT on professional fees in connection with the transaction cannot be claimed.

However, a recent tax tribunal decision has determined that, under certain circumstances, the input VAT may be claimed. The case concerned the sale of a subsidiary company to provide additional funds to complete the building of a new hotel within a hotel group.

The taxpayer successfully argued that the costs had been incurred as part of raising funds for the group's downstream activities generating taxable supplies.

HMRC may be appealing the decision, but in the meantime, companies in a similar position may seek to make protective claims to recover the input tax on professional fees.

DIARY OF MAIN TAX EVENTS - NOVEMBER-DECEMBER 2023

Date	What's Due
1 November	Corporation tax for year to 31/01/2023, unless quarterly instalments apply
19 November	PAYE & NIC deductions, and CIS return and tax, for month to 5/11/23 (due 22/11 if you pay electronically)
1 December	Corporation tax for year to 28/02/2023, unless quarterly instalments apply
19 December	PAYE & NIC deductions, and CIS return and tax, for month to 5/12/23 (due 22/12 if you pay electronically)
30 December	Deadline for filing 2022/23 tax return online in order to request that HMRC collect outstanding tax via the 2024/25 PAYE code

For our help, email: admin@williamsaccountants.com