Newsletter SUMMER 2009

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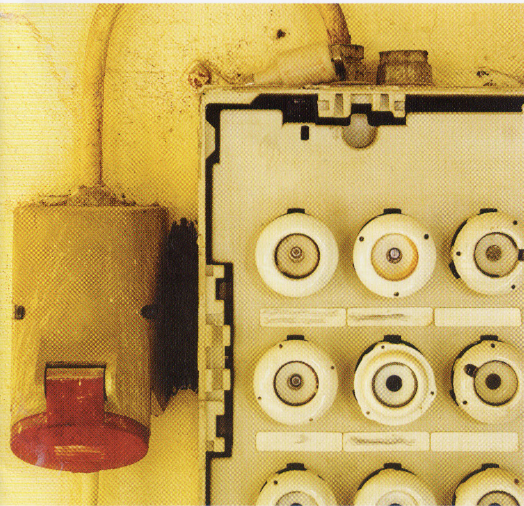

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Make do and mend?

In the current economic climate, you might decide to repair some of the facilities in your premises, for example your electrical system, rather than replace them. Rules in the Finance Act 2008, which became effective from 1 April 2008 for companies and 6 April 2008 for sole traders and partnerships, could restrict what costs you can deduct and when.

For specified equipment that forms an integral feature of a building, last year's reform of capital allowances introduced a new 10% annual rate of writing-down allowance.

Integral features include electrical and lighting systems, water, heating and air conditioning (as well as any repairs to floors and ceilings damaged in the process). Also included are lifts, escalators and external solar shading. A building's thermal insulation is included, except where the building is used as a residence.

But what happens if you decide to repair such equipment instead of replacing it? Generally, if you repair your plant and machinery, rather than replace it, you can deduct the full cost of the repair when calculating your taxable profits in the year the expenditure is incurred. However, when integral features are repaired, the new legislation may restrict the deduction.

The problem is that if, in any 12-month period, the total cost of repairing an integral feature is more than 50% of the cost of replacing it in full, the expenditure will qualify for capital allowances at the rate of only 10% a year. So if you intend to carry out repairs (for example, to a lighting system), you will need to obtain an estimate from a qualified third party of the cost of full replacement, and keep a running total of your current and future repair costs in a 12-month period to test against 50% of that estimate.

Although HM Revenue & Customs has issued further guidance, there are several unanswered questions. For example, the guidance does not explain what will happen to expenditure that is initially below the 50% limit, but later exceeds it due to poor workmanship requiring remedial repairs, or whether expenditure can be reduced by insurance proceeds, so that only the net expenditure incurred is considered for the 50% test.

This is a complex area, so let us know if you are planning to repair or replace assets. When reviewing the tax treatment of repairs, we will also take other allowances into account, such as the annual investment allowance and the 100% allowance for energy-saving equipment. Why wait longer than you have to for a tax deduction on your expenditure?

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This newsletter is for general information only and is not intended to be advice to any specific person. You are recommended to seek competent professional advice before taking or refraining from taking any action on the basis of the contents of this publication. The newsletter represents our understanding of law and HM Revenue & Customs practice as at May 2009.

How did the Budget stack up?

This year's Budget, though aimed primarily at boosting the economy and plugging the government's financial gap, contained some useful measures for business.

The temporary extended tax relief for trading losses is now more generous than previously announced. It is available for losses of two accounting periods, rather than just one as originally planned. Businesses can carry back up to £50,000 of losses a year against the profits of the two years before the immediately preceding year. Businesses can already carry back unlimited trading losses against profits of the preceding year.

Company losses in accounting periods ending between 24 November 2008 and 23 November 2010 can benefit, and sole traders and partnerships can also claim additional relief for losses in accounting periods ending in the tax years 2008/09 and 2009/10.

Businesses investing more than £50,000 in equipment can benefit from a temporary first-year allowance (FYA) of 40%. This covers expenditure over £50,000, which would otherwise have received a 20% allowance. Some equipment is excluded, cars in particular. For more information on FYAs, see 'Temporary first-year allowance saves tax' below.

The small companies' corporation tax rate of 21% continues this year and the main rate will stay at 28% for the financial year 2010. Incorporation may become more attractive to individuals and partnerships who from 6 April 2010 will be hit by the 50% tax rate on income over £150,000 and the gradual withdrawal of the personal allowance on income over £100,000.

The introduction of new measures to crack down on income splitting between spouses has been postponed, so running a business as a company in which both partners take dividends remains beneficial. There are some limitations and you should take advice.

Capital gains tax (CGT) remains at 18%. One way of avoiding high rates of income tax may be to leave profits in your company. Eventually you could sell or liquidate the company, paying only 18% CGT, or even 10% if your gain qualifies for entrepreneurs' relief.

One surprise Budget announcement is the abolition, from April 2010, of the tax reliefs for furnished holiday lettings. You might want to consider disposing of such property before 6 April 2010, so that you can claim CGT entrepreneurs' relief, rollover relief or holdover relief.

As always, we are happy to advise further on how you can plan for the changes announced in the Budget.

Did you know that businesses will be able to delay paying part of April's 5% increase in business rates, though not immediately? Business rates generally have risen in line with the previous September's retail price index, but since last September, inflation has fallen to zero. Relief will not be instant. When the regulations are in place, local authorities will write to businesses offering a revised payment schedule for 2009/10. Until then, businesses must pay the bills they have received. Rates will still rise by 2% with the remaining 3% phased in over the next two years. At present, the relief only covers England, but it may be extended to the rest of the UK.

Temporary first-year allowance saves tax

There are some generous tax breaks under the revised capital allowances regime. The latest in the Finance Bill 2009 is a temporary 40% first-year allowance (FYA) for expenditure on general plant and machinery. So what can you do now to maximise tax relief?

Most businesses, regardless of size, benefit from the 100% tax-allowable £50,000 annual investment allowance (AIA) for investment in their plant and machinery.

However, if you spend more than £50,000 in a year on most types of equipment, the excess expenditure attracts a writing-down allowance of only 20%. Equipment that becomes part of a building when fitted, eg a cold water system, is classed as an 'integral feature' and attracts a writing-down tax allowance of only 10% a year. It was and still is worth considering bringing forward or delaying expenditure to avoid exceeding the £50,000 AIA limit in any one year.

The Finance Bill 2009 will allow businesses incurring expenditure in excess of the AIA cap to claim a 40% FYA instead of the 20% writing-down allowance. This temporary measure is intended only for the 12-month period beginning on 1 April 2009 (companies) or 6 April 2009 (individuals and partnerships). The 100% allowance for designated energy saving or environmentally beneficial plant or machinery continues alongside the temporary FYA.

Some expenditure does not qualify for the temporary FYA, primarily 'special rate' expenditure (including long-life assets and integral features), expenditure on cars, and expenditure on assets for leasing.

A key point is that you still do not have to allocate expenditure to the AIA in the order you incur it. If you spend more than £50,000 on equipment, you can choose which expenditure falls within the AIA and which does not.

Please get in touch at the planning stage so that we can advise you on the new FYA rules. We can help you plan your business expenditure on assets to maximise your tax relief and carry out a review to ensure that you have claimed all available tax reliefs on what you have spent to date. Don't pay more tax than is necessary.

VAT roundup

With many businesses suffering during the current recession, every chance to enhance cash flow needs to be explored. Taking advantage of a variety of VAT measures could be one way of achieving this and avoiding VAT penalties. Some useful areas to explore are VAT on management charges, the 50% rule on leased cars and sales to non-EU customers.

VAT on management charges

If you trade through more than one company, you can move profit from one company to another by making management charges. This may save you money if profits are moved from a company paying tax at a higher rate to one paying tax at a lower rate. For example, if you are re-charging between companies for the use of staff, this will normally be liable to VAT unless the staff have joint contracts of employment.

Consider forming a VAT group, because it could help you to avoid such problems. Transactions within the group are ignored for VAT purposes so you do not need to remember to charge VAT.

The 50% rule on leased cars

If you are thinking of buying a company car, which will have less than 50% business use, then from a VAT point of view it may make sense to lease it instead. As a general rule, VAT recovery on cars is blocked, but you may be able to recover 50% of the VAT your leasing company charges you.

If you are leasing already, but haven't yet claimed the 50% of the VAT on your VAT return, you may be entitled to go back up to 36 months to recover it.

Non-EU customers

When filling in your VAT return, you should be entering the amount of your turnover (excluding VAT) in **Box 6**. However, if you 'make supplies outside the scope of VAT' (eg sales to non-EU based customers) where do you include these?

If you do include them, the comparison with the VAT on sales figure in **Box 1** may look out of balance and so lead to enquiries from HM Revenue & Customs (HMRC). The advice given on the HMRC website differs depending on which page you are on. To avoid the unwanted attention of HMRC, you should exclude your 'out-of-the-scope-of-VAT' sales figures from **Box 6**.

Clearly, it is always better to take advantage of VAT opportunities from the outset and avoid mistakes that could later prove costly in terms of VAT penalties.

If you need advice on accounting for VAT, completing your VAT returns or correcting or disclosing errors, we are happy to help.

An interest-free 'energy-efficiency loan' of between £5,000 and £200,000 from the Carbon Trust could help you cut costs by allowing your business to invest in more energy-efficient equipment, but you may be wondering how to get the necessary credit. As long as the projected cost of energy used after completion of the proposed project shows a significant reduction, the type of equipment used is not an issue. Unsecured and interest-free, with no arrangement fees, the loans can be repaid over a period of up to four years. Contact us to see if you might be eligible for one.

Making the most of tax credits

For tax credit purposes, it is likely that there is not as much time to advise HM Revenue & Customs (HMRC) about the changes to your financial circumstances as you think. You have only one month to advise of in-year changes, so what can you do to maximise your tax credits claim?

Before 31 July, you should receive two tax credits documents from HMRC. The first of these is the annual review form on which you have to check that your 'personal circumstances' (ie eligibility to claim) have not changed. To be eligible, you need to be in paid work and responsible for children or young people. No change, no action. Then there is the annual declaration where you tell HMRC about your income for 2008/09.

By completing and signing this you are also making a claim for tax credits for 2009/10. (Even if you are not entitled to tax credits for 2009/10 you need to complete a declaration if you submitted a claim for tax credits in 2008/09.)

In general, the higher your income, the more your claim will be reduced. However, paying into a pension increases your tax credits by reducing your income. For example, income over £6,420 reduces entitlement to tax credits at the rate of 39p per extra £1 of income. A pension payment of £8,000 net (£10,000 gross) will increase tax credits paid by £3,900 (39%). As a basic rate taxpayer you receive 20% tax relief on your pension contribution. Over that rate, for every £1 that your income has been reduced, you receive 39p of tax credits. With a combination of tax relief and tax credits, this can mean a tax deduction of up to 98% (20% + 39% + 39%) for a pension contribution.

Of course tax is not the only consideration. There are pros and cons to paying an extra pension contribution. Please come and talk to us about the full implications of extra pension contributions and your 31 July tax credit renewal forms.

Financial services compensation coverage

Investors have welcomed the increase in the amount of deposits covered by the Financial Services Compensation Scheme (FSCS). Since 7 October 2008, each depositor in a defaulting authorised firm, such as a bank, has been eligible for compensation of up to £50,000 (an increase on the previous amount of £35,000).

The FSCS was set up mainly to help private individuals, including sole traders, but depositors and investors in small companies are also covered. A small company is defined as one that meets at least two of the following criteria:

- A turnover of no more than £6.5 million (£5.6 million for accounting periods that started before 6 April 2008).
- A balance sheet total of no more than £3.26 million (£2.8 million for periods starting before 6 April 2008).
- No more than 50 employees.

Large companies are generally excluded, though some claims in respect of compulsory insurances may be covered. Partnerships and unincorporated associations are excluded if they have net assets of more than £1.4 million. Trusts are covered in a similar way to individuals.

Whether a charity is covered depends on how it is constituted. If a charity is a limited company, it will be covered if it qualifies as a small company. If it is an unincorporated association, its net assets must not exceed £1.4 million.

Filing VAT returns online

With effect from 1 April 2010, if the value of your annual sales is more than £100,000 it will be compulsory for you to file your VAT returns online. You will also need to file online from this date if you are newly registered for VAT.

The benefits of online filing are very worthwhile:

- You get an extra seven calendar days to file your return, eg to 7 September 2009 for your July 2009 return.
- You also have three more working days before payment of any tax is taken by direct debit from your business bank account. This means you get an extra five calendar days if a weekend is involved, ie until the 12th day of the month.
- You don't have to worry about the post. When you have completed your VAT return, a printed acknowledgement is sent to confirm that HMRC has received the return.

The online process will alert you to basic errors made in completing the return and some of the boxes are completed automatically.

It is important that you register for online filing as soon as possible to avoid any last-minute rush as the deadline approaches.

KEY TAX DATES

Every month

1 Annual corporation tax due for companies with year ending nine months and a day previously, eg tax due 1 May 2009 for year ending 31 July 2008.

14 Quarterly instalment of corporation tax due for large companies (depending on accounting year end).

19 Pay PAYE/NIC and CIS deductions for period ending 5th of the month if not paying electronically. Submit CIS contractors' monthly return.

22 PAYE/NIC and CIS deductions paid electronically should have cleared into HMRC bank account.

If the due date for payment falls on a weekend or bank holiday, payment must be made by the previous working day.

June 2009

30 File accounts at Companies House for private companies with year ended 31 August 2008 and public companies with year ended 30 November 2008.

July 2009

5 Final date to agree 2008/09 PAYE Settlement Agreements (PSA).

6 Last date for returns of expenses and benefits (forms P11D, P9D and P11(b)) for 2008/09 to reach HMRC. Relevant employees to receive copies of forms P11D and P9D.

Last date to submit annual returns for employee share schemes and employment-related securities for 2008/09 (forms 34, 35, 39, 40 and 42).

14 Due date for CT61 return and payment for quarter to 30 June 2009.

19 Class 1A NICs for 2008/09 due (22 if paid electronically).

30 File accounts at Companies House for private companies with year ended 30 September 2008.

31 Due date for second payment on account of 2008/09 income tax and Class 4 NIC.

Last day to pay 2007/08 tax to avoid second automatic 5% surcharge (unless late payment agreed with HMRC) and to file 2007/08 tax return to avoid second automatic penalty up to £100.

File accounts at Companies House for public companies with year ended 31 December 2008.

Confirm tax credit claims for 2008/09.

August 2009

2 Submit forms P46 (car) for quarter to 5 July 2009.

31 File accounts at Companies House for private companies with year ended 31 October 2008 and public companies with year ended 31 January 2009.

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