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Welcome...

To December's Tax Tips & News, our newsletter designed to bring you tax tips and news to keep you one step ahead of the taxman.

If you need further assistance just let us know or you can send us a question for our [Question and Answer Section](#).

We are committed to ensuring none of our clients pay a penny more in tax than is necessary and they receive useful tax and business advice and support throughout the year.

Please contact us for advice on your own specific circumstances. **We're here to help!**

December 2016

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HMRC clarify pre-registration of VAT policy

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HMRC have recently published Brief 16 (2016), entitled [Treatment of VAT incurred on assets that are used by the business prior to VAT registration](#). Broadly, the brief aims to clarify when, and to what extent, VAT is deductible and what to do if the correct treatment has not been applied.

A business registering for VAT may recover tax incurred on goods and services before their effective date of registration (EDR). This allows the recovery of VAT against goods and services as long as they are used by the taxable person to make taxable supplies once registered.

Services must have been received less than six months before the EDR for VAT to be deductible. This time limit is a simplification of the rules and means that detailed calculations of the use before and after EDR are not required. This excludes services that have been supplied onwards. VAT on services received within the relevant time limit can be recovered in full.

Goods have a four-year time limit for deduction that is consistent with the general VAT 'capping' provisions. Again, this excludes goods that have been supplied onwards or consumed before EDR. However, VAT on fixed assets purchased within four years can be recovered in full.

HMRC believe that the word 'consumed' has been interpreted inconsistently over time, particularly in relation to business assets and HMRC. The purpose of Brief 16 is therefore to clarify the policy position, which HMRC stress, has not changed. The policy is as follows:

Subject to the normal rules on VAT deduction:

- VAT on services received within six months of EDR and used in the business at EDR is recoverable in full;

- VAT on stock is deductible to the extent that the goods are still on hand at EDR (for example apportionment may be required);
- VAT on fixed assets purchased within four years of EDR is recoverable in full, providing the assets are still in use by the business at EDR.

Full recovery only applies if the business is fully-taxable. Businesses who are partly-exempt, have non-business activities, or need to restrict VAT deduction for any other reason, will need to take that into account when calculating deductible VAT.

HMRC will accept corrections for overpayment of VAT in the following circumstances:

- the business has reduced the VAT it deducted on fixed assets, to account for pre-EDR use;
- HMRC have raised an assessment of tax to account for pre-EDR use of fixed assets;
- HMRC have reduced a repayment claim to account for pre-EDR use of fixed assets.

HMRC will consider claims for repayment of penalties and interest charged as a result of assessments.

Employment Allowance consultation launched

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HMRC have launched a [technical consultation](#) on proposals to restrict the Employment Allowance (EA) from employers of 'illegal workers'. The consultation is open for comments until 3 January 2017.

Budget 2016 announced that from April 2018, the EA would be **removed for one year from those who receive civil penalties for employing illegal workers**. Broadly, the allowance entitles the vast majority of businesses, charities, and community amateur sports clubs to a reduction of up to £3,000 per year on their employer National Insurance Contributions (NICs) bill. Whilst the allowance has very broad eligibility, the Government believes that those who break the law by employing illegal workers should not benefit from it. The purpose of the restriction therefore is to ensure the allowance focuses on employers who are providing legitimate employment.

The proposed change will only impact employers who have received a civil penalty from the Home Office for employing workers subject to immigration control and have exhausted their Home Office appeal rights in relation to that civil penalty. Early estimates suggest that around 2,000 employers will be affected.

Voluntary living wage increase takes effect

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The official living wage rate has increased by 20p per hour to £8.45 an hour (£9.75 in London), which is higher than the UK-wide official National Living Wage for those over 25, currently set at £7.20, while those under 25 must be paid the national minimum wage (NMW).

The Living Wage is independently-calculated each year based on what employees and their families need to live. **Employers can choose to pay the real Living Wage on a voluntary basis** but it is currently paid by a third of FTSE 100 companies.

The rates apply to all workers over 18 in recognition that young people face the same living costs as everyone else.

These figures are calculated annually by the Resolution Foundation and overseen by the Living Wage Commission, based on the best available evidence on living standards in London and the UK.

Caps on income tax relief

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In general terms, providing a business is undertaken on a commercial basis with a view to making a profit, tax relief should be available for trading losses incurred. It is usually possible to offset the loss against other taxable income from the same year, or the previous year. Other taxable income may

include for example, a former employment (where tax was deducted under PAYE) or a pension.

This relief may be particularly beneficial for someone who is self-employed on a part-time basis. For example, where an individual earns £30,000 a year from employment, and makes a £2,000 loss from his or her part-time business, their tax bill for the year will be based on income of £28,000.

Where a loss is incurred in any of the first four tax years of a new business, **the amount of the loss can usually be carried back and offset against total income of the three previous tax years**, starting with the earliest year. Therefore, where an individual has paid income tax in any of the previous three years, he or she is likely to be entitled to a repayment of tax. The maximum amount must be offset each year - it is not possible to offset a proportion of the loss in order to spread the loss across three years to take advantage of beneficial tax rates. Again, relief will not be available unless the individual was trading on a commercial basis with a view to making a profit within a reasonable timescale. In practice, this requirement may be difficult to prove in the case of a new business and HMRC may want to see a viable business plan to support a claim.

It is worth noting that the income tax legislation sets out various specific reliefs that may be deducted in the calculation of income tax liability, including reliefs which can be relieved against general income. Before 6 April 2013 there was generally no upper limit on the amount of income tax relief which could be claimed. However, from 6 April 2013 certain restrictions apply to the amount of loss relief available. The primary reliefs affected by the cap are the trade loss reliefs outlined above, property loss reliefs that can be relieved against general income, and qualifying loan interest relief. A small number of other reliefs will also be affected. The cap is set at £50,000 or 25% of income, whichever is greater.

'Income' for the purposes of the new cap will be calculated 'total income liable to income tax'. This figure will then be adjusted to include charitable donations made via payroll giving and to exclude pension contributions - this adjustment is designed to create a level playing field between those whose deductions are made before they pay income tax, and those whose deductions are made after tax. The result, known as 'adjusted total income', will be the measure of income for the purpose of the cap.

The cap will apply to the year of the claim and any earlier or later year in which the relief claimed is allocated against total income. The limit will not apply to relief offset against profits from the same trade or property business.

Anyone wishing to make a claim for loss relief needs to be aware of the time limits for doing so - HMRC must be informed within 12 months following 31 January after the end of the loss-making business year.

December questions and answers

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Q. My wife doesn't work. Can she transfer her unused personal tax allowance to me?



A. Since April 2015, it has been possible for a spouse or civil partner who is not liable to income tax or not liable above the basic rate for a tax year, to transfer part of their personal allowance to their spouse or civil partner, provided that the recipient of the transfer is not liable to income tax above the basic rate.

The transferor's personal allowance will be reduced by the same amount. For 2015/16 the amount that could be transferred was £1,060, rising to £1,100 for 2016/17. The spouse or civil partner receiving the transferred allowance will be entitled to a reduced income tax liability of up to £220 for 2016/17 (£212 for 2015/16). Note, however, that married couples or civil partnerships entitled to claim the married couple's allowance are not entitled to make a transfer.

Q. I am currently in the process of purchasing a property which includes a separate granny annex. Since there is only one title number for the whole property, can I apply for stamp duty land tax multiple dwelling relief (MDR)?

A. Broadly, if the granny annex is an independent dwelling, then it will count for MDR. If it cannot exist independently of the main house, then MDR will not be available.

The HMRC Stamp Duty Land Tax Manual states (SDLTM29955):

'For the purposes of the relief a "dwelling" means a building or part of a building which is suitable for use as a single dwelling or is in the process of being constructed or adapted for such use.'

Special rules apply to certain types of dwellings, including halls of residence and 'off plan' transactions. See the HMRC [Stamp Duty Land Tax Manual](#) for further information.

Q. I bought a flat in 2000 and paid £100,000 for it. I left the UK in November 2003 to work overseas and it has been rented out since then. I have not returned to the UK since I left and I now live permanently in France. I am thinking of selling my UK flat, which is now valued at £300,000. What are the tax implications of doing this?

A. The tax implications for non-UK residents selling UK residential properties changed in relation to disposals after 5 April 2015. Prior to then, there would have been no UK capital gains tax to pay. Unfortunately, after that date, the disposal will be subject to capital gains tax based on the value of the gain between 6 April 2015 and the date of sale. There are different ways of calculating the gain and you can use HMRC's [online calculator](#) to work out the amount of tax due. You must tell HMRC within 30 days of conveyance, for example no later than 31 July if you convey on 1 July. HMRC may impose penalties where the reporting deadline is missed and interest will be payable on tax not paid by the normal due date. See the HMRC website at <https://www.gov.uk/guidance/capital-gains-tax-for-non-residents-uk-residential-property> for further information.

December key tax dates

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19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/12/2016

30 - Deadline for 2015/16 self assessment online returns to be filed if you are an employee and want tax underpaid to be collected by adjustment to your 2017/18 PAYE code (for underpayments of up to £3,000 only)



Need Help?

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Please contact us if we can help you with these or any other tax or accounts matters.



In addition, if there's anyone else who you think would benefit from the newsletter, please forward the email to them or ask them to contact us to be added to the newsletter list.

New Clients Welcome

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If you are not already a client and are interested in becoming one, we would love to come to meet with you to discuss how we can help and provide you with a competitive quote for our services.



All new client consultations are provided free of charge and without obligation.

About Us

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Smith Craven Accountants are based in Doncaster, Sheffield, Worksop and Chesterfield, offering local business owners and individuals a wide range of services.

Visit our website <http://www.smithcraven.co.uk> for more information.

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