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Welcome...

To November'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 in your own specific circumstances. **We're here to help!**

November 2016

Restriction of tax relief on finance costs for individual landlords

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New provisions will take affect from April 2017, which will see tax relief for finance costs on residential properties being gradually restricted over a period of three years, until, by 2020/21, all financing costs incurred by a landlord will be restricted to the basic rate of income tax.

Such finance costs include mortgage interest, interest on loans to buy furnishings and fees incurred when taking out or repaying mortgages or loans. No relief is available for capital repayments of a mortgage or loan.

Landlords will no longer be able to deduct all of their finance costs from their property income to arrive at their property profits. They will instead receive a basic rate reduction from their income tax liability for their finance costs. Whilst the restriction is being phased in, relief for each year will be as follows:

- for 2017/18: the deduction from property income (as is currently allowed) will be restricted to 75% of finance costs, with the remaining 25% being available as a basic rate tax reduction;
- for 2018/19, 50% finance costs deduction and 50% given as a basic rate tax reduction;
- for 2019 to 2020, 25% finance costs deduction and 75% given as a basic rate tax reduction; and
- from 2020/21 onwards: all financing costs incurred by a landlord will be given as a basic rate tax reduction.

The restriction does not apply to companies or furnished holiday lettings.

Major concerns have been expressed over these changes, including the formation of the campaign group 'Axe the Tenant Tax' who claim that the legislation will result in a substantial increase in rents for tenants and worsen the current UK housing crisis.

Led by Cherie Blair QC, landlords Steve Bolton and Chris Cooper took their case to the High Court on 6 October 2016, to argue that they should be granted a judicial review of the law but they were denied permission for a full hearing. Speaking outside the court, following the decision not to grant permission for the case to proceed any further, Blair said 'landlords face challenging times ahead'.

Those opposed to the changes say that the rules do not take account of the fact that the landlord takes the risk of property ownership, including repairs, vacancies and potential non-payment. The group will continue to push the case to government.

The landlords' next step is to launch a range of lobbying, media and grass-roots activism measures which will include asking landlords to write to tenants if rents have to be increased informing then the government has forced them to take this action.

NMW increases take effect

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New rates for the National Minimum Wage (NMW) took effect from 1 October 2016, and employers must ensure that they implement them accordingly. The rates are as follows:

- 25 and over - £7.20 per hour;
- 21- to 24-year-olds - £6.95 an hour;
- 18- to 20-year-olds - £5.55 an hour;
- 16- to 17-year-olds £4.00 an hour; and
- Apprentice rate - £3.40 an hour.

The increased NMW penalty took effect from 1 April 2016 and applies to any notice of underpayment relating to a pay reference period beginning on or after that date. Broadly, the penalty percentage which may be imposed for non-compliance has been increased from 100% to 200%. The **maximum penalty is a hefty £20,000 per worker**, although it may be reduced by 50% if the unpaid wages and the penalty are paid within 14 days.

For further information on the NMW, see the GOV.UK website at https://www.gov.uk/national-minimum-wage-rates.

Help-to-Save

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The Savings (Government Contributions) Bill is currently making its way through Parliament, having had its second reading in the House of Commons on 17 October 2016. Broadly, if enacted, the Bill will introduce two new schemes - the lifetime ISA and Help-to-Save - both of which are designed to support more people as they try to save for the future.

Help-to-Save will target working families on the lowest incomes to help them build up their savings. The scheme will be open to some 3.5 million adults in receipt of Universal Credit with minimum weekly household earnings equivalent to 16 hours at the National Living Wage, or those in receipt of Working Tax Credit. It will work by **providing a 50% government bonus on up to £50 of monthly savings** into a Help-to-Save account. The bonus will be paid after two years with an option to save for a further two years, meaning that people can save up to £2,400 and benefit from government bonuses worth up to £1,200. Savers will be able to use the funds in any way they wish.

There has been concern within the tax profession that the initial consultation on Help-to-Save does not mention the tax status of the scheme. Calls have been made for a specific exemption to be written into tax law to exclude both the government bonus and any interest on the accounts from income tax.

Perhaps the most obvious way of dealing with this would be to give Help-to-Save accounts Individual Savings Account (ISA) status. This would also have the knock-on effect of dealing with concerns over what happens on death and compliance aspects of transferring accounts between providers, both of which are taken care if in the ISA legislation.

It is generally felt that whilst the income might otherwise fall within individuals' 0% starting rate for savings band, or their personal savings allowance, it would be altogether simpler to have a specific exemption so that no calculations are necessary.

Whilst the Bill continues its journey through Parliament, HM Treasury says that the new accounts will be available no later than April 2018.

Self-assessment and disclosure top

Finance Act 2016, which became law on 15 September 2016, contains provisions designed to help clarify the time allowed for making a self-assessment.

The time limit is four years from the end of the tax year to which the self-assessment relates. This is the same time limit as for assessments by HMRC. The provisions will have effect on and after 5 April 2017, although there are transitional arrangements for years previous to this, as follows:

- for tax years prior to 2012/13, taxpayers have until 5 April 2017 to submit a self- assessment;
- for 2013/14, the deadline is 5 April 2018;
- for 2014/15, the deadline is 5 April 2019; and
- for 2015/16, the deadline is 5 April 2020.

The four-year time limit applies to everyone and those that are currently outside the time limit have notice to put in their self-assessment by 5 April 2017.

The concept of 'finality' is a key feature of the self-assessment system. The time limit for HMRC to make enquiries into information given in a return is generally linked to the date it was submitted. For personal tax returns delivered by the filing date (generally 31 January following the end of the tax year), the enquiry window closes 12 months after the delivery date. Once this date has passed a taxpayer can usually assume that his affairs for that year are final.

However, **finality of a return within the above timeframe can be jeopardised if HMRC discover a loss of tax.** In cases of where there has been careless or deliberate behaviour resulting in the loss of tax, the normal four-year window may be extended to 20 years.

Many taxpayers are not aware of HMRC's discovery powers and even where they are aware of the possibility of discovery outside the enquiry window, they need to be aware that the subject of disclosure is itself not entirely free from doubt and may still be in a state of evolution.

The basic condition for a discovery assessment to make good a loss of tax is that an HMRC officer discovers income or gains which have not been assessed, or an insufficient assessment, or an excessive tax relief. However, this power is restricted in its application. Firstly, if the taxpayer has delivered a tax return containing an error or mistake, HMRC cannot make a discovery assessment if the return was based on the practice generally prevailing when it was made. Secondly, HMRC cannot make a discovery assessment unless one of the following conditions is satisfied:

- the loss of tax, etc. was caused by careless or deliberate behaviour by the taxpayer or a person acting on his behalf; or
- when HMRC can no longer enquire into the return, the officer could not have been reasonably expected from the information previously available to be aware of the matter giving rise to the discovery.

The taxpayer has the right of appeal against a discovery assessment on the ground that neither of the above conditions has been satisfied.

Taxpayers are required to exercise their judgment in providing the necessary level of disclosure. HMRC encourage submission of the minimum necessary, yet warn that 'Information will not be treated as being made available where the total amount supplied is so extensive that an officer 'could not have been reasonably expected to be aware' of the significance of particular information and the officer's attention has not been drawn to it by the taxpayer or taxpayer's representative.'

In the case of returns where discovery is a possibility, taxpayers must give careful thought to the question of disclosure.

November questions and answers

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Q. I have recently set up my own business after having been employed for many years. Although I am hopeful that I will eventually make a profit, I anticipate that I am likely to make a small loss in each of my first three years of trading. What is the best way for me to utilise these losses for tax purposes?

A. If a business is being carried on on a commercial basis with a view to making a profit, it is generally possible to claim relief for a trading loss in one tax year against other taxable income (for example PAYE income or a pension) from the same year, or the one before. You will be free to decide which year to claim the losses against. You should note that HMRC will restrict loss relief if you carry on a trade but spend an average of less than ten hours a week on commercial activities.

Where a loss is incurred in any of the first four tax years of a new business, the loss can be carried back against total income of the three previous tax years, starting with the earliest year. Therefore, if you paid tax in any of the previous three years, you should be entitled to a repayment of tax, which may be especially welcome in those often difficult early years of trade. You must offset the maximum for each year - it is not permissible to offset just 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 you were 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 you may need a viable business plan to support a claim.

A cap on relief was introduced in April 2013, which applies to certain previously unlimited income tax reliefs that may be deducted from income. Trade loss relief against general income, and early trade losses relief, as outlined above, are two areas where this relatively new restriction will apply. The cap is set at £50,000 or 25% of income (calculated using a specific formula), whichever is greater.

Where a trader makes a loss in a year, but does not have any other income against which the loss can be set, he or she can carry it forward indefinitely and use it to reduce the first available profits of the same business in subsequent years.

A taxpayer can also set any losses arising from a business against any chargeable capital gains. The relief can be claimed for the tax year of the loss and/or the previous tax year. However, the trading loss first has to be used against any other income the taxpayer may have for the year of the claim (for example, against earnings from employment) in priority to any capital gains.

Q. My wife and I are both directors of a company and we are soon to relocate to another part of the country to set up a new branch. The existing branch will continue to be run by the two other company directors. Will be both be entitled to the £8,000 relocation expense exemption?

A. As long as you are both employees of the company in your own right, the exemption provisions in ITEPA 2003, s 287 should render you both eligible for the £8,000 exemption. Further information on relocation costs for tax purposes can be found on the GOV.UK website at https://www.gov.uk/expenses-and-benefits-relocation.

Q. I use the Flat Rate Scheme for VAT purposes. Can I claim back the VAT I have recently paid on some new equipment I have bought for the business?

A. If you use the Flat Rate Scheme, you can reclaim the VAT you have been charged on a single purchase of capital expenditure goods where the amount of the purchase, including VAT, is £2,000 or more. You reclaim the input tax suffered by making an entry in box 4 of your VAT return. If the costs cover more than one purchase and the total is less than £2,000, or the purchases relate to a supply of services, then no VAT is claimable, as this input tax is already taken into account in the calculation of your flat rate percentage. Further information on the Flat Rate Scheme for VAT can be found on the GOV.UK website at https://www.gov.uk/vat-flat-rate-scheme.

November key tax dates

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2 - Last day for car change notifications in the quarter to 5 October - Use P46 Car

19/22 - PAYE/NIC, student loan and CIS deductions due for month to 5/11/2016

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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