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TAX E-NEWS

Monthly Update

John Harrison and Company

OCTOBER 2011

Dear Client,

Welcome to our monthly tax newsletter, designed to keep you informed of the latest tax issues.

We hope you enjoy reading the newsletter and remember - we are here to help you so please contact us if you need further information on any of the topics covered.

Best wishes

Tax Partner

HOW HMRC CAN MAKE A DISCOVERY

The tax authorities are entitled to look at and ask questions on any tax return within an enquiry window which normally ends 12 months after the tax return was filed with them. But they can also do this outside that window, by making what is termed a *discovery*, if they can show that all relevant information was not supplied to them with the tax return so they had no way of knowing that all might not be well.

As your tax adviser we always take care to disclose additional information with the tax return where we feel that protects you from a later *discovery*, but until now HMRC have things very much their way on this. A recent tax case, however, looks like it has changed that. The case is *Dr Michael Charlton and Others v HMRC* and we will try to use it to your advantage if you ever face the threat of HMRC making a *discovery* in respect of an old tax return.

THE CHANCELLOR'S AUTUMN STATEMENT

This we now know will be on 29 November 2011, and following a new policy it is likely to be accompanied by draft clauses of new legislation planned to be introduced on 6 April 2012. This enables us to have a good look at the changes well before they come into force, and needless to say we will be ready to advise you fully in plenty of time before any avoiding action is needed.

NEW STAND-ALONE BUSINESS ANGEL SEED INVESTMENT SCHEME (BASIS)

Building on the new tax breaks covered in last month's Tax E-News, there is an exciting new opportunity which is scheduled to start next tax year.

BASIS is based on the existing Enterprise Investment Scheme (EIS) but is more narrowly targeted at the seed level and to business angels.

The possible structure is up for consultation, but there are plenty of valuable tax breaks associated with an investment under BASIS, and it should also be a useful additional source of new finance. It is likely to involve the following:

1. More flexibility around the use of debt instruments, whereas EIS covers subscriptions for shares only.

2. Rather than based on company size, number of employees and gross assets, as with EIS, the new scheme may enable a more accurate target for investor and company by way of identifying characteristics of an angel investor and seed-stage company.

3. BASIS relief could be available only where the company is in pre-trading stage and intending to use the funds raised to develop business concepts. There may also be a restriction in the definition of a business angel entitled to the new relief as that may require that person to have invested in at least 4 seed stage companies, so as to demonstrate valuable experience and at the same time have a record of previous EIS investment.

At this stage it is well worth flagging this up for you to consider in detail when the exact rules are known which is not the case yet – for example we do not yet know the rate of tax relief under BASIS but this likely to be more than the 30% applying to an EIS investment given that BASIS has a higher risk profile. We will be pleased to discuss this with you as a prospective investor or where you have a business idea you wish to develop and need to look at all possible sources of finance.

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COMPANY CAR CHANGES

The income tax charge on the valuable benefit of having a company car available for your private use is often changed, so as to encourage car makers and drivers to lower CO2 emissions. Plenty of notice is usually given of each change, given that naturally it is not realistic to expect anyone to be able to change the company car without a good deal of lead time.
Here is what is happening over the next few tax years, and don't forget that diesel cars face a 3% supplement on the tax charge which is not planned to change.

- The level of CO2 emissions qualifying for the basic minimum income tax charge of 15% of the car's list price is currently 125 g/km for 2011/12 and there is a special lower charge of 10% of list price where CO2 emissions do not exceed 120 g/km. All that changes from 2012/13 with a new emissions scale starting at 10% for 76 to 99 g/km, rising by 1% per 5g/km to the usual maximum of 35%. So in 2012/13 if you have a company car with CO2 emissions of 120 to 124 g/km you will face a tax charge on 15% of list price instead of 10%. That's a 50% increase in your tax bill!

- From 2013/14 the taxable benefit % increases by 1% for a car with CO2 emissions of at least 95 g/km, but at the moment the plan is to keep the top tax charge on 35% of list price. The latter applies where CO2 emissions are at least 220 g/km, so essentially the 1% hike covers cars of between 95 and 219 g/km.

All this means it is essential to review your company car – whether as user or provider- and we are ready to advise you fully of the position in your circumstances or those of your employer, plus how to minimise the tax charge over the next few years.

ADVISORY FUEL RATES FOR COMPANY CARS

Published guidelines are issued by HMRC. The stated aim is to save time for all concerned by setting out figures which they reckon can be used in the majority of cases

They are only advisory, and can apply where the employer reimburses the employee for fuel for business travel in a company car or where the employer requires the employee to repay the cost of fuel for private travel in a company car.

They used to be reviewed every 6 months, but more frequently at HMRC's consideration if fuel prices fluctuated by 5% from the current rate and that was likely to be sustained. However, that arrangement has changed and the rate per mile is simply reviewed four times a year instead – on 1 March, 1 June, 1 September and 1 December. The rates from 1 September 2011 are as follows, and although they are basically the same as applied from 1 June there is a subtle (and somewhat sneaky) change to diesel powered cars as the advisory rate has been reduced where the engine size is between 1,401 cc and 1,600 cc.

engine size	*fuel cost per mile*		
	petrol	*diesel*	*LPG*
to 1,400 cc	15p		11p
to 1,600 cc		12p	
1,401 to 2,000 cc	18p		13p
1,601 to 2,000 cc		15p	
Over 2,000 cc	26p	18p	18p

Please contact a member of our Tax Team if you would like to discuss any of the issues raised.