2016

SPRING NEWS

Smith-Milne & Co.

Chartered Certified Accountants

Smith-Milne & Co Limited
23 Church Street
Rickmansworth
Hertfordshire
WD3 1DE

t: 01923 83 23 03
f: 01923 71 13 75
e: office@smithmilne.co.uk
w: www.smithmilne.co.uk

ACCA

Director
Justin Smith-Milne FCCA

Registered to carry on Audit Work and regulated for a range of investment business activities by the Association of Chartered Certified Accountants

The future's digital

You may have heard confusing stories about having to submit four tax returns a year. This is not going to happen immediately, but there are changes ahead which will affect how businesses report their profits or losses and pay tax.

The Government wants to make tax digital, and to do away with the annual tax return. Its big idea is that businesses will be required to submit their income and expense figures electronically to HMRC at least four times a year, using some magic software which has yet to be invented. Those raw figures will be used to calculate a rough amount of tax due, which will be payable at least four times a year.

In fact, total sales income less expenses doesn't equal taxable profit, as adjustments are needed for items which aren't tax deductible (e.g. entertaining), as well as for debtors, creditors, and allowances. Thus, in practice, the raw figures can't be used as the basis for an accurate tax liability, however smart the software is. Some accounting adjustments will be required, which we will help you with.

As a self-employed individual, you already make two tax payments a year on 31 January and 31 July. A similar payment-on-account system may spread the tax due over four payment dates, which may not be a bad thing. We will have to see the detailed proposals.

Small companies, on the other hand, pay Corporation Tax in one payment, nine months after the end of the accounting period. Paying tax by instalments will be a big change for those companies.

There will be a lot of consultation by the Government and HMRC before these changes are introduced, but you can be certain things will change. HMRC would like taxpayers to be filing quarterly reports of their income and expenses from April 2018. Let us know how you feel about more frequent tax payments and we will pass your views on to HMRC. •

Tax-free meals

Employees who are away from their main workplace because they are working at a temporary site, or are travelling for business reasons, can claim reimbursement for the cost of meals eaten during those periods. There is no cap on the amount that can be claimed from their employer, but the employee must provide receipts to support the expense.

In practice, most employers impose a cap on what can be claimed for meals. Since 2009, HMRC has accepted that employers can reimburse the cost of meals where receipts are not provided, if the cost is no more than a benchmark rate, varying from £5 for breakfast to £15 for an evening meal.

From 6 April 2016, a new set of maximum rates for meal costs with no receipts will apply. These rates vary according to the number of hours the employee is away from his normal workplace: £5 for at least five hours, to £25 for 15 or more hours. An additional meal costing up to £10 can be claimed if the employee is still travelling at 8pm.

These meal rates are payable in addition to the cost of travel, which includes travelling to a temporary workplace. The new rates cannot be paid as part of a salary sacrifice arrangement. Do ask us about reimbursement of meal costs and travelling expenses – there is more to this topic than meets the eye. •

New VAT treatment for telecoms services

Where your business buys services from businesses based in other countries, you should apply the VAT 'reverse charge' to those services. The supplier doesn't charge you VAT on the service, but you add VAT at the rate that applies to the service in the UK. You then include that amount of VAT on your VAT return as part of sales (output VAT) and also as part of VAT suffered on purchases (input VAT).

Services purchased within the UK are not normally subject to a reverse charge, as the supplier charges VAT in the normal way. However, this has changed for wholesale telecom services supplied within the UK on and after 1 February 2016.

The services covered include routing telephone calls and associated data over landlines, mobile networks or the internet (e.g. Voice Over Internet Protocol calls). The VAT change only affects business-to-business sales, where the intention is to sell on the telecoms service with little or no consumption (sometimes known as 'carrier hotels').

This VAT change was introduced with only two weeks notice, as it is part of an anti-fraud drive. Penalties will apply for non-compliance, but HMRC will apply a light touch for the first six months, as it realises businesses have had very little warning before implementing the changes. We can help you decide when you have to apply a reverse charge of VAT. ●

Trivial benefits

When you give a bunch of flowers to your employee to say 'congratulations' or 'get well soon', do you expect them to be taxed on the value of those flowers? No, of course not. HMRC agree that such trivial benefits should not be taxed, but this is an unofficial rule applied by concession only.

From 6 April 2016 the law will be changed to make it clear that employees are not taxed if they receive a gift from their employer worth up to £50. There are restrictions – the gift must not be cash or a voucher that can be converted into cash.

To prevent family companies from taking advantage of this tax-free benefit, the directors of those companies won't be able to receive more than £300 of trivial benefits in one year. This cap will also apply to each of the director's family members. ●

Are you 'in business'?

If you have received a letter from HMRC querying whether you run a real business, you are not alone. You also have every right to feel confused by conflicting official guidance.

Last year HMRC told UK traders they must register for VAT Mini One Stop Shop (MOSS) if they sell any electronic services (such as e-books) to non-business customers in other EU countries. Many online traders did as they were told and submitted quarterly VAT MOSS returns to report tiny levels of international sales in 2015.

HMRC have assumed such low levels of international sales are a reflection of equally small UK sales, and concluded that those reporting small amounts on VAT MOSS don't operate 'real' businesses. HMRC is asking those traders to deregister from VAT MOSS, and not to report their sales income on their UK tax returns.

We believe HMRC is mistaken. Serious UK businesses may have very small levels of international sales, due to the nature of their products. If you are in business, you must report EU sales of e-products to consumers under VAT MOSS, even if that is only one sale per year.

To decide whether you are genuinely in business you need to examine all factors relating to your business, including levels of purchases and sales, and whether you are aiming to make a profit. We can help you with that decision.

To make life easier for smaller VAT MOSS-registered businesses, HMRC is relaxing the rules slightly. Such businesses will only have to collect one piece of information about their customers to determine where the customer is based, and thus what VAT rate must be applied to the sale. This concession only applies for businesses with an annual turnover of less than £82,000. ●

SDLT on second homes

If you are buying a second home, or a residential property to let out, you may be hit by a supplemental 3% Stamp Duty Land Tax (SDLT) charge. This will also affect landlords who transfer their residential property portfolio to a wholly-owned company.

The SDLT supplement is due to apply to residential property purchases completed on or after 1 April 2016. The supplement will be calculated on the full purchase price where that is £40,000 or more. A similar 3% supplemental Land and Buildings Transaction Tax (LBTT) charge is set to apply to purchases of second homes in Scotland.

The supplement should not be payable where the new property is a replacement for your main home, but if the new home is purchased before the old one is disposed of, the SDLT supplement may have to be paid and reclaimed within the next 18 months, at a point when you only own one home. Properties owned in other countries will be counted.

The property you occupy as your main home will be deemed to be your main home for SDLT purposes. This may not be the property which you have nominated to be treated as your main home for CGT purposes.

Married couples will be deemed to have only one main residence between them, even if they live in different properties. Unmarried couples who occupy two different homes will be able to hold one property each before paying the 3% charge on any subsequent property acquisition.

A company can't have a main home. Where a company buys even its first residential property, it will pay the extra 3% SDLT if the property costs £40,000 or more. There will be special arrangements where a company makes a bulk acquisition of 15 or more properties in one transaction.

The 3% SDLT charge will be calculated on the full consideration given for the property. A home purchased for £250,000 currently attracts SDLT of £2,500. Where the 3% SDLT supplement applies, the total SDLT charge will be £10,000. ●

Basic charge:	(250,000 - 125,000) x 2%	£2,500
Supplement:	250,000 x 3%	7,500
Total charge:		10,000

The good and bad news

The Employment Allowance is a good thing – it gives almost every employer a credit worth up to £2,000 to set against their NIC bill. This credit will increase to £3,000 for 2016/17, which may help to offset the costs of the higher 'living wage' payable from 1 April 2016.

The bad news is that the Employment Allowance will be withdrawn from one-person companies from 2016/17. These are companies where the sole director is the only employee.

If this applies to your company, you must remember to untick the claim for Employment Allowance in your first Real Time Information (RTI) submission for 2016/17. We can do this for you if we handle your PAYE submissions. ●

VAT on DIY homes

When you build your own home you can't reclaim the VAT charged on the materials, which puts you at a cost disadvantage compared to a commercial builder. However, you can apply for a VAT refund using the VAT scheme for DIY builders.

Unfortunately, the DIY scheme is unnecessarily complicated and is full of traps for the unwary. For example, VAT may only be reclaimed on building materials, not on services such as architects' fees. If you reclaim VAT on non-qualifying items, HMRC may slap a penalty on you for a careless error.

The home you are building must be for your own use, not a commercial venture to be sold or let out. Of course, you are likely to sell the home eventually, when your family's circumstances change, but you shouldn't say that on the application form.

A further trap is the state of the property before the work starts. The DIY scheme can apply to a new build, or the conversion of a non-residential property into a dwelling. If part of the property was residential before the work began (such as a flat above a pub), it won't qualify.

However, the DIY scheme can apply when a derelict property is converted into a home. The property must have been unoccupied for at least ten years, and HMRC have been known to ask for proof that it has been empty for that period.

We can help you claim a VAT refund under the DIY scheme, and advise on what evidence you need to support that claim. ●

Pension contributions to be limited

The amount you and your employer can contribute into your pension fund each year is limited by your pension Annual Allowance (AA). This is set at £40,000, plus any unused allowance from three preceding years. However, 'top earners' will see their AA tapered down to a minimum of £10,000 for 2016/17.

If your pension contributions exceed your AA for the year, you have to pay tax on the excess contributions at your highest rate of Income Tax. So it's important not to exceed your AA if at all possible.

A 'top earner' is someone with total income of £150,000 or more. But this figure includes the value of any contributions the taxpayer and their employer make into the taxpayer's pension fund in the tax year. Many self-employed people will find it impossible to calculate their total income until after the end of the tax year.

If your income in 2016/17 is likely to be £110,000 or more, before pension contributions are counted, you should ask your employer about the value of the amount added to the company pension scheme on your behalf. You may need to opt out of the company pension scheme before 6 April 2016 and negotiate compensation for that opt-out.

You could also consider transferring income-generating assets, such as property or shares, to a lower-earning spouse or civil partner before 6 April 2016. This will lower your income and raise that of your spouse. However, a transfer to an unmarried partner will trigger a disposal which can be subject to Capital Gains Tax.

A third option is to maximise your pension contributions before 6 April 2016 by making use of any unused AA brought forward from the previous three tax years.

Let's discuss all of your options concerning pension contributions. Tax could be payable if you leave planning to the last minute. ●

Making R&D easier

Lots of companies carry out Research and Development (R&D) in order to invent new materials and products, or just to improve their processes. The Government wants to encourage such innovation, so permits small companies to deduct 230% of their R&D qualifying costs. This reduces the cost of an R&D project by 46%. What's not to like?

The company must apply to use the R&D tax relief scheme within two years of the end of the year in which the R&D costs were incurred. Many companies don't bother applying as they think it's too complicated, or fear it will lead to a tax investigation.

To help counter these myths, HMRC has set up an advance assurance process for companies that apply for R&D relief for the first time. If advance assurance is granted, the first three R&D claims the company submits will be accepted without enquiry.

To qualify for advance assurance your company must employ fewer than 50 people and have turnover of no more than £2 million. Larger companies can apply for R&D relief, but not through the advanced assurance process.

We can help you apply for R&D relief, whatever the size of your company. ●

Getting the right fit for flat rate VAT

Using the flat rate VAT scheme can save some small businesses a lot of hassle and money, but it doesn't suit everyone. The benefit largely depends on the trade category your business falls into, as each trade has its own flat rate.

The flat rate percentage is multiplied by your gross sales to calculate the amount of VAT to pay to HMRC each quarter. So the higher the flat rate, the larger amount you need to pay over. Under the flat rate scheme, you ignore all the VAT on purchases, unless you buy an asset costing over £2,000.

The tricky bit is matching your business activities to one of the 55 trade categories. If you choose the wrong category, HMRC will let you change it, but generally not with retrospective effect. This means you could be saddled with too high a flat rate for a while. If you genuinely make a mistake about the trade category on the application form for the flat rate scheme, you can change it, but you must tell HMRC as soon as possible.

Some trade categories cover a wide range of activities, while other activities don't seem to fit anywhere. If your business doesn't fit anywhere obvious, you need to choose one of the catch-all categories such as 'any other activity not listed elsewhere' or 'business services not listed elsewhere'.

HMRC may decide a different trade category is a better fit for your business, particularly if their choice would mean more VAT is due. If this happens you can challenge HMRC's decision. We can help you with that – after all, you know your business better than HMRC. ●

ATED extended

The Annual Tax on Enveloped Dwellings (ATED) will apply to residential properties worth over £500,000 from 1 April 2016, where the property is owned by a company or similar vehicle. According to the Land Registry, the average price of a home in London is over £500,000, so the ATED could apply to a lot of properties.

However, the value to be considered for ATED is that as at 1 April 2012, or when the current owner acquired the property, if later. If you are not sure about the value at 1 April 2012, you can ask HMRC to undertake a value banding check. We can help you with that.

The annual tax starts at £3,500, but there are many reliefs, such as for commercially let properties. Where a relief applies such that no tax is payable, an ATED relief form must be submitted, generally by 30 April each year. We can help you complete and submit all the ATED forms required. ●

Extracting capital from your company

What are you going to do with your company? When you have finished trading, will you sell it on, or liquidate it to extract the capital? The proceeds in either case are treated as a capital gain, which is taxed at 10% if entrepreneurs' relief applies.

This is a very low rate of tax. Some people are tempted to set up a company, trade for a few years and then liquidate the company, with the objective of paying only 10% on all the profits held within the company. Then they repeat the process with a new company.

There are already tax avoidance rules which HMRC can deploy against people who use such 'phoenixing' tactics, but those rules are about to be toughened.

From 6 April 2016 it is proposed that the proceeds from the liquidation may be taxed as dividends rather than as Capital Gains. Dividends are subject to higher tax rates from that date, of: 7.5%, 32.5% or 38.1% (depending on the level of your other income), with the first £5,000 per person tax-free.

The tough new rules will apply where the shareholder is trying to save tax by liquidating their company, and starts up another business in a similar trade within two years of the liquidation. The new business may be a company, sole-trader or partnership. This will apply even if the scale of the business is much diminished, or run by a close relative.

If you are thinking of liquidating your company, that liquidation must be completed before 6 April 2016 to avoid the new rules. Liquidations can take many months, so you need to act fast.

Where you opt for the cheaper and quicker option of striking off rather than liquidation, the proceeds will be taxed as if they were dividends, where the total exceeds £25,000.

Let's talk about the plans for your company before the new rules come into effect. ●

Increase in NMW

The National Minimum Wage (NMW) rate normally increases on 1 October, but the next rate change applies for pay periods that fall on or after 1 April 2016. From that date employees who are aged 25 and over must be paid at least £7.20/hr (the 'living wage').

Such individuals, who work 35 hours per week, will see their wage rise from £234.50 to £252. This will cost the employer an extra £19.91 per week including NIC. If the employee is enrolled in a company pension the total cost will be higher. We can help you identify which employees should receive a pay rise, and budget for this extra cost. ●

Withdrawal of wear and tear

If you let out fully-furnished residential property you can claim a wear-and-tear allowance against the profits. This is calculated at 10% of the rents received for each property, and applies irrespective of what you spend on furnishings each year.

That allowance is abolished from 6 April 2016 (1 April 2016 for corporate landlords). For 2016/17 and later years, you will be able to claim the cost of replacing 'domestic items' used in your let residential property. Domestic items are: furniture, furnishings, household appliances and kitchenware, but not fixtures – which are items fixed to the property, such as a built-in hob. Replacing fixtures continues to be treated as an allowable repair for tax purposes and is unaffected by the new rules.

You won't be permitted to claim for the cost of items initially provided in the property, only for the replacement of those items, on a like-for-like basis. However, any fees incurred when disposing of the old items can be claimed. The new rules will apply to both partly- and fully-furnished properties.

There are special rules for properties that qualify as furnished holiday lettings. These allow capital allowances to be claimed for all items (both fixed and loose) used in those properties. The capital allowances are available on the cost of the initial items used in the property as well as on any cost of replacements.

Where you let a room in your own home and claim rent-a-room relief, you can't claim for the cost of replacing domestic items. Ask us if you have any questions about what you can claim as a deduction when letting property. ●

Farming losses

Farmers have a tough time selling produce at prices set by mega supermarkets, while simultaneously coping with extreme weather conditions. But the tax law still expects farms to make a profit.

Where your business is farming or market gardening, and you make a loss for more than five consecutive years, the losses for the sixth and subsequent years are denied sideways loss relief. This means you can't set those losses against your other income in the same tax year (if you have any). The farming loss can only be carried forward to set against future farming profits.

If you claim the sideways loss relief irrespective of this five year rule, you run the risk of a tax investigation, interest and penalties. It may be some years down the line that HMRC decide to review all of your losses, and retrospectively deny relief.

Simply not claiming the sideways loss relief in the fifth year will not work. You need to break the pattern of losses with a profit, even a very small one, at least every five years.

You can also argue that, as a competent farmer, you would have had a reasonable expectation of making a profit on your farm, at the start of your run of losses. Thus, it can be shown that you did set out to make a profit, but simply suffered from unusual conditions.

We can help you defend your legitimate farming losses against a challenge from HMRC. ●

No tax on interest on savings

For as long as we can remember, banks and building societies have been required to deduct basic rate tax from interest paid to savers. Only certain accounts, such as tax-free ISAs or child trust fund accounts, receive interest with no tax deducted.

From 6 April 2016 all banks and building societies will pay interest with no tax deducted – for any type of savings or current account. However, only the interest paid into designated tax-free accounts will be exempt from tax in the hands of the saver. All other bank interest will continue to be taxable at various rates.

To avoid savers having to pay tiny amounts of income tax on the bank interest they receive, the rate of tax payable in most cases will be 0%. This rate will apply to any interest falling within the saver's Personal Savings Allowance (PSA), Personal Allowance (PA), or starting rate tax band.

In 2016/17 the PA will be £11,000, the PSA will be £1,000 (basic rate taxpayer) or £500 (higher rate taxpayer), and the starting rate band will be £5,000. However, the starting rate band doesn't apply where non-savings income exceeds £16,000.

Taxpayers with income over £122,000 don't have a PA and taxpayers with income of £150,000 or more don't have a PSA, so the 0% tax rate doesn't apply to top earners.

It's all a bit complicated, and many banks haven't got to grips with the new rules yet. We can help you understand how much tax you will have to pay on interest you receive next year. ●