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RHK
Chartered Accountants and Business Advisers

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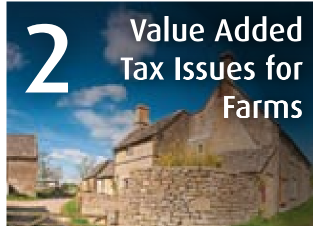
2 Value Added Tax Issues for Farms

3 Reducing Tax Emissions

4 Extracting Profits Wisely

The Next Generation Starting off on the Right Foot

RHK are delighted to welcome the next generation of the McMurray family as clients of the Firm.

David McMurray was the much respected Finance Director of Kelly Packaging Limited, a prominent local company, for over 15 years and who worked with RHK on a number of interesting and varied assignments. Now his youngest son, Graeme has launched Rubix Communications, a marketing and communications consultancy.

With a wealth of big marketing agency experience, Graeme has seen the need for marketing agencies to cut down on overheads for cost-sensitive clients. Graeme stated "At Rubix Communications we sit down with clients and do some serious strategic thinking to identify the best way to take a company forward. RHK adopted the same positive philosophy with me and helped me get my business structure right from the outset."

"RHK adopted the same positive philosophy with me and helped me get my business structure right..."

David Thompson, Senior Partner in RHK, added "This is an example of why RHK have been around since 1922, whilst we wholeheartedly embrace new technology and new working methods, the traditional service levels and care for our clients is our primary concern. Word of mouth, personal and family recommendation is always the best way to help clients navigate those early days in business."

Graeme McMurray from Rubix Communications with RHK's latest addition to the Tax Department, Nicola Marshall

RHK produce an indispensable comprehensive guide for all new businesses entitled "**Starting off on the Right Foot**" containing all the information you need to get you started. The guide contains copies of all the forms you need, links to specialist help and detailed advice on how to get it right first time. If you, a friend or even a family member would like a copy please let David know on **dthompson@rhk.co.uk** or contact the office on 0191 4781513.

RHK wish Graeme every success in his new venture and if you would like to see how Rubix Communications are getting on, why not visit his website **www.rubixcommunications.co.uk** or contact Graeme on 01207 291 210 or **Graeme@rubixcommunications.co.uk**

Value Added Tax Issues for Farms

Over the last few years HM Revenue & Customs have taken a greater interest in farming "Bed and Breakfast" facilities operated by the spouse/partner of farmers. They have been looking to demonstrate that the "Bed and Breakfast" business is actually being run by the farm and thereby creating a standard rated supply for VAT purposes on which output tax would be accountable to HMRC.

Unfortunately, some farming families have been rather dilatory in their treatment of their "Bed & Breakfast" income providing HMRC with an easy target. One could argue that HMRC should have discussed their intentions and views with the farming industry to at least agree conditions for the acceptance of a separate business beforehand.

HMRC have adopted two lines of attack:-

- Firstly, they issue a notice under their anti-disaggregation powers making the "Bed and Breakfast" business and farm business to be deemed to be a partnership carrying on a single business. The combined business would, therefore, have to account for VAT on all standard-rated supplies made. This notice has no retrospective effect. In order to issue this notice HMRC would have to show that there is a single business that had been artificially split. If there are, in reality, two separate businesses then HMRC are not supposed to be able to adopt this course of action but where a farming "Bed & Breakfast business is concerned their argument is that they are both part of "The Farm" business.
- HMRC's second line of attack, which is used much more frequently, gives them the benefit of retrospection. They will argue that the "Bed & Breakfast" business was always run by the VAT registered farming business, enabling them to impose a retrospective VAT liability for up to four years.

The best line of defence is to separate the activities as much as possible. The two businesses should not do anything in connection with each other that they would not otherwise do if the two entities were unconnected anyway.

All of the costs associated with the "Bed & Breakfast" business should be incurred and paid directly by the spouse/partner. Using different telephone numbers would help, as would separate advertising. Staffing costs should be managed carefully. Any cross charges should be calculated accurately. Separate bank accounts, accounting records and notifications to the Revenue side of HMRC are absolutely essential.

Fortunately, HMRC often confuse their two lines of attack and are sometimes incoherent in their attempts to thwart what they consider to be an unacceptable arrangement. It is, therefore, up to the family to ensure that there is a clear line of separation between the two businesses.

Given the known potential risk we would recommend that the farmer and his spouse/partner review their current arrangements to make sure that they have done all they can to keep the two businesses administratively separated. For example, it would be a good idea for the spouse/partner to commence paying the farmer rent to show that she is entitled to use the property for the purpose of her own business.

This same principal can of course apply to other businesses where there is a potential that two, or even more businesses, could be linked for VAT purposes.

Please do not hesitate to contact us if there are any issues you wish to discuss.

Update on Furnished Holiday Lettings

The tax treatment of Furnished Holiday Lettings (FHL) has been advantageous for many years. Provided that certain conditions are met, FHL are treated as a deemed trade for certain purposes. This can be more preferable than the tax regime for normal let property in a number of specific areas, as the rules and reliefs for trades are often more generous.

Changes were made in 2009 to ensure that this preferential treatment is available to properties located anywhere in the European Economic Area (EEA) as well as in the UK to avoid discrimination issues.

Repeal of the FHL rules?

The extension was to be temporary as HMRC had already effectively decided to completely abolish the FHL rules for all properties, whether in the UK or EEA, with effect from 6 April 2010. However, these changes never made it through Parliament before the General Election.

The Coalition Government has since confirmed that there will be no changes to the rules for the current tax/financial year. Instead of abolition, new proposals have been put forward as follows:

- that the minimum period over which any property must be available for letting to the public will be increased from 140 days to 210 days in a year
- that the minimum period over which a qualifying property is actually let will be increased from 70 days to 105 days in a year
- that losses incurred will only be set against income from the same FHL business. This means that losses on letting an EEA property could only be set against profits from the EEA business.
- that certain changes to capital allowances would be required.

Clearly, this would mean that some businesses would cease to be FHL and lose several valuable tax reliefs. Even if a business meets the new tests and remains as a FHL, the compliance and record keeping burden will be increased.

The above changes which could apply from April 2011 are not final yet and we will keep you informed of any further developments. Please do get in touch if you would like to discuss how these proposals might affect your own position.

Reducing tax emissions!

Employees and directors who have the private use of an employer owned (often referred to as a company) car have to pay income tax on the value of the benefit. Their employer also has to pay Class 1A national insurance on the value of the benefit. It is therefore critical in replacing such cars that both employer and employee are fully aware of the tax implications before such decisions are made.

This article summarises the changes for this current tax year 2010/11 as well as those which will impact in the next two tax years 2011/12 and 2012/13.

The starting point

The valuation of a car benefit is usually worked out by applying a % to the list price of the car. The list price is the manufacturer's published price for the vehicle, including any accessories and VAT and currently is capped at £80,000. The % is worked out by reference to the CO2 emissions of the car and its fuel type but for most cars falls in the range 15% to 35%. There are some exceptions, the key one currently being a 10% only benefit for low emission cars up to 120 grammes per kilometre (g/km) CO2 emissions.

Current changes - 2010/11

A car with CO2 emissions of 135 g/km was valued at 15% of list price for example in 2009/10 – this has increased to 16% from 6 April 2010. In other words, there is an increase of 1% on the benefit for all cars with CO2 emissions of up to 235g/km compared to last year. All cars with higher CO2 emissions were already taxed at the maximum 35% of list price.

In addition two new changes have been introduced in 2010/11 as the government tries to encourage the development and purchase of lower emission vehicles. Firstly a new 0% charge applies for a car (or van) which 'cannot in any circumstances emit CO2 when being driven' - essentially electric cars! This means that an employee with a qualifying car will pay no tax on the benefit. Likewise, the employer will have no Class 1A NIC to pay on the car.

Secondly a new 5% band has been introduced for cars with CO2 emissions of 75g/km or less. Various car manufacturers are busy developing cars with such low CO2 emissions which are available to pre-order.

And the future brings

There are two further mainstream changes from 6 April 2011 as follows:

- A further 1% increase in the benefit will again generally apply to cars with CO2 emissions of up to 230g/km compared to 2010/11.
- The £80,000 list price cap is to be abolished meaning that more expensive cars will be taxed on the true list price value.

Finally, from 6 April 2012 cars will have to have CO2 emissions of between 76g/km and 99g/km to be taxed at 10% of the list price (currently up to 120g/km). Cars with CO2 emissions of 100g/km will then be taxed at 11%, with a 1% increase for every 5g/km increase in CO2 emissions, subject to the maximum of 35%, attained when cars have emissions of 220g/km or more.

Clearly this menu of changes provides food for thought so that the decisions on car replacements do not result in tax indigestion! A business also needs to consider the tax relief aspects of the cost of the car purchase or lease against their profits, so please do contact us if you require further information on these areas.

Extracting profits wisely

If a business is run as a company, funds may be extracted from the company in a variety of ways. The most important methods of income extraction are as follows:

- remuneration (including benefits in kind)
- pension contributions
- dividends
- loans from the company
- interest on loans to the company
- rent on personally owned property used in the company's trade.

In addition, some extractions can be structured as a capital gain, but HMRC have some nasty rules for the unwary, so advance planning is crucial.

For an individual who has ongoing involvement in the company, the main income extraction options are reviewed below.

Dividends v Bonus

Dividends continue to be more tax efficient than bonuses in most circumstances, due to the fact that the corporation tax deduction does not outweigh the added national insurance (NIC) costs of providing cash remuneration. This is particularly attractive for companies that pay the small rate of corporation tax currently at 21%.

It is therefore essential that, if dividend extraction is required, attention is paid to company law procedures and that any dividends are lawful.

Benefits

Certain benefits are tax and NIC free and should not be overlooked. In addition, tax relief on their provision is usually available to the company.

Loans

Making a loan for a temporary period to a director/shareholder does have a number of taxation implications but can be used effectively. For the company, where loans are outstanding more than nine months after the accounting period end, the company will have to pay a 25% tax charge. However, this will eventually be refunded when the loan is repaid or written off. For the individual, they will be assessed on a benefit for the use of the funds at the official HMRC interest rate, currently 4% of the loan balance annually. The employer will be charged with Class 1A NIC on this element.

However, compared to awarding a bonus or declaring a dividend there may be a tax saving, especially for those in the 50% tax band.

Loans to the company

Loans to the company may provide another route for extracting profits from the company through interest receipts rather than dividend receipts. The company will usually receive a corporation tax deduction for the interest accrued, however if the interest rate is more than a 'reasonable commercial return' the excess is treated as a dividend and so the excess is not tax deductible.

Pension contributions

Pension contributions are tax efficient for both employers and employees/directors. From the individual's perspective employer contributions are generally tax and NIC free. However those with incomes of £130,000 or more in 2010/11 or in either of the previous two tax years should take advice before making contributions due to targeted anti-forestalling rules. Recent announcements for 2011/12 may also impact substantially on the tax efficiency of significant employer pension contributions for all levels of earners in future tax years so again advice is recommended before action is taken.

Using family members

Employing family members or running the company in tandem with them can be a very useful way of both spreading the tax burden within the family and obtaining a business tax deduction. Consideration should always be given to whether the overall package is reasonable and commercial for the value of the work undertaken.

As you can see, there are many options available to owner managers but each has different consequences.

If you have any queries or would like to discuss your personal options in more detail, please do get hesitate to contact us to make an appointment.

:inside RHK

The big 50!!!!

RHK's Tax Partner, Brad Thomas celebrated his 50th Birthday on 31 December 2010. Although Brad thought he had escaped any surprise party in the office by sunning himself on a Caribbean cruise, staff at RHK managed to catch him on his first Friday back by arranging a Caribbean themed birthday lunch. HAPPY BIRTHDAY BRAD!!!!

New Arrivals!!!

RHK welcomed Nicola Marshall to their Tax Department in October 2010. Nicola joined RHK after working in tax for 3 years prior at Charlton Williamson LLP. Nicola is a member of The Association of Taxation Technicians and has recently passed her Chartered Tax Adviser Exams.

RHK has also welcomed Donna Liddell to their Corporate Services Department in February 2011. Donna joined RHK after working in the audit and accounts department at Haines Watts for over 5 years and she is currently studying towards her ACCA qualification.

Big Congratulations to Steven Venus, from our Business Services Department, and his wife Vicky on the arrival of baby Zach on 9th January weighing 6 lbs 11oz.

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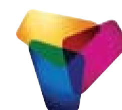

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