Hawsons Chartered Accountants

Care Insight

Addressing the topical issues……..

Spring 2013

In This Issue:

www.hawsons.co.uk

Sheffield - 0114 266 7141 | Doncaster - 01302 367262 | Northampton - 01604 645600

Tax Saving Opportunities

Due to the ever changing tax legislation and commercial factors affecting your business, it is advisable to carry out an annual review of your tax position.

Pre-year end tax planning is important as the current year's results can normally be predicted with some accuracy and time still exists to carry out any appropriate action.

We outline below some of the areas where advance planning may produce tax savings.

Advancing expenditure
Expenditure incurred before the accounts year end may reduce the current year's tax liability.

In situations where expenditure is planned for early in the next accounting year the decision to bring forward this expenditure by just a few weeks can advance the related tax relief by a full 12 months.

Examples of the type of expenditure to consider bringing forward include:

- building repairs and redecorating
- advertising and marketing campaigns
- redundancy and closure costs.

Note that employer payments into pension schemes are only allowable for tax purposes when the payments are actually **made** as opposed to when they are charged in the accounts.

Capital allowances
Consideration should also be given to the timing of capital expenditure on which capital allowances are available to obtain the optimum reliefs.

Following the announcement of the Finance Bill 2013, from 1 January 2013 for a two year period the Annual Investment Allowance was **increased to £250,000** (prior to 1 January 2013 was £25,000). The AIA cap is expected to return to £25,000 from 1 January 2015.

Expenditure on qualifying plant and machinery in excess of the AIA is eligible for writing down allowance (WDA) of 18% (prior to 1 April 2012 20%). Where the capital expenditure is incurred on integral features incorporated in buildings the WDA is 8% (prior to 1 April 2012 10%).

Trading losses
Companies or individuals incurring tax losses have three main options to consider in utilising these losses:

- they can be set against any other income (for example bank interest) or capital gains arising in the current year
- they can be carried forward and set against trading profits arising in future years
- they can be carried back for up to one year (or more on trade ceasing) and set against total profits.

Extracting profits from companies
Directors/shareholders of family companies may wish to consider extracting profits in the form of dividends rather than as increased salaries or bonus payments.

This could lead to substantial savings in National Insurance Contributions.

Note however that company profits extracted as a dividend remain chargeable to corporation tax at a minimum of 20% from 1 April 2012.

Dividends
From the company's point of view timing of payment is not critical, but from the individual shareholder's perspective, timing can be an important issue. If the shareholder is a higher/additional rate taxpayer, a dividend payment which is delayed until after the tax year ending on 5 April may give the shareholder an extra year to pay any further tax due.

The deferral of tax liabilities on the shareholder will be dependent on a number of factors. Please contact us for detailed advice.

Loans to directors and shareholders
If a 'close' company (broadly, one controlled by its directors or by five or fewer shareholders) makes a loan to a shareholder, this can give rise to a tax liability for the company.

If the loan is not settled within nine months of the end of the accounting period, the company is required to make a payment equal to 25% of the loan to HMRC. The money is not repaid to the company until nine months after the end of the accounting period in which the loan is repaid by the shareholder.

A loan to a director may also give rise to a tax liability for the director on the benefit of a loan provided at less than the market rate of interest.

Rates of tax
For the 2013 financial year:

- If annual taxable profits of a company do not exceed £300,000, they are charged at the **small profits rate of 20%.**
- If the profits exceed £1,500,000, the **full rate of 23%** applies.
- If profits fall between these limits, marginal relief is given. All the profits are charged to tax at a rate between 20% and 23%.
- For an individual profits are taxed as part of total income, in **bands at 20%, 40% and 45%.**

For the 2014 financial year the full rate of corporation tax is to be **reduced to 21%.**

Capital gains tax

Companies and individuals are chargeable to tax on their capital gains less allowable capital losses.

Indexation allowance
In order to counteract the effects of inflation inherent in the calculation of a capital gain, an indexation allowance is given to companies only. However the allowance is not allowed to increase or create a capital loss.

Planning of disposals
Consideration should be given to the timing of any chargeable disposals to ensure advantage is taken where possible of minimising the tax liability at small profits rate rather than full rate. This could be achieved depending on circumstances by accelerating or delaying sales.

The availability of losses or the feasibility of rollover relief (see below) should also be considered.

Purchase of new assets
It may be possible to avoid a capital gain being charged to tax if the sale proceeds are reinvested in a replacement asset.

The replacement asset must be acquired in the four year period beginning one year before the disposal and only certain trading tangible assets qualify for relief.

Raising Finance

Who needs finance?

Every business from its commencement and through its development and growth will need finance.

But what type of finance is best suited to the development of your business, and who should you approach for funding?

We provide guidance below on types of finance available and outline the planning required before approaching any lending institution.

Planning for growth

Is finance required?
Finance is very often necessary but consider what it will entail. Additional funding requires a commitment in terms of capital and interest payments. Embarking on this course of action must therefore be planned carefully.

The business must be capable of sustaining any additional commitment to growth or expansion, and consideration will need to be given to effects on manpower, materials and space.

Tapping existing resources
Before seeking outside finance, a business must consider whether it could improve its working capital from within.

Particular attention should be given to stock and debtors to ensure that both are kept to a minimum. Consider how long it takes to bill customers and collect debts and look at ways to reduce this time.

If there are periods of time when surpluses of cash arise, review your affairs to try and ensure these are being used to generate income by investing on temporary short term deposit.

Business plan

Assuming external funding is necessary, planning is essential in achieving success. A well drawn up business plan not only crystallises in your own mind the nature of the project and the timing of any required funding, but is vital to any lending institution. They are unlikely to provide any assistance without a properly drawn up business plan.

The plan will include details of:

- the objectives and aims of the business
- the purpose of the required funding
- the business ownership and history
- management and responsibilities
- products and market share
- sales plan and strategy
- the financial position of the business with detailed cash flow forecasts and past accounts.

Types of finance

General

Finance is available in many forms, but it is important to make sure that it is right for your business. Onerous terms and inflexibility can often hinder a growing business.

The more obvious sources of finance include bank overdrafts and medium to long term loans and mortgages, but rates of interest can vary considerably. Therefore we advise you to consult with us before making your final decision.

Specific

Specific methods of finance are available for acquiring assets or releasing cash from debtors. Carefully consider the options available which include:

- leasing assets
- hire purchase
- outright purchase
- debt factoring
- invoice discounting.

Each method of funding has advantages and disadvantages including implications for tax purposes.

Other

Other means of finance may be available for your business from government sources, through the issue of shares or even your own pension scheme.

Government assistance can be in the form of grants, loan guarantees or an enterprise capital funds. Other grants may be available on a regional or local level.

Raising finance by issuing shares may be another option to consider.

Security

Whatever form of finance is offered, the lender will always require some form of security. However the level of security sought may vary - beware the lender asking for unreasonable guarantees.

Fixed and floating charges

Most bank loans and overdrafts are secured by way of a fixed charge over land and buildings with floating charges over other assets of the company such as stock and debtors.

Personal guarantees

For some businesses little security may be available because of insufficient assets. Consequently the security will be given in the form of personal guarantees.

Take extreme care before signing these guarantees as they can be difficult to amend at a later stage and many have suffered as a consequence.

In particular, personal guarantees are best if they are limited by time or amount. **Unlimited guarantees are the most dangerous.**

General

It may be possible to use other assets as collateral such as life insurance policies or by taking a second mortgage over your home.

Whatever the means of security pledged, it should be carefully considered and advice sought.

Payroll Real Time Information

RTI – an introduction

RTI is mandatory for all employers and is to be implemented from April 2013; indeed some employers have already started reporting this way.

Under RTI, employers or their agents, will be required to make regular payroll submissions for each pay period during the year detailing payments and deductions made from employees each time they are paid.

Whilst the majority of payroll software providers are gearing up to ensure that they are able to deal with the new compliance requirements of the RTI system, there are some important changes which will need to be made to the timing and the way you process your payroll.

Get ready!

RTI is being phased in for batches of employers but each employer will have to follow the same sequence of events as detailed below:

Data Validation
The first step in the RTI process is that you will need to send employee data to HMRC which they will validate using their own databases.

Therefore, to avoid any discrepancies during the validation procedure you need to ensure that the employee information you currently hold is complete and up to date.

In particular you need to ensure that the following employee details are accurate:

- full employee name
- date of birth
- national insurance number (NINO)
- full postal address (this is a mandatory field where the NINO is unknown)
- gender

HMRC are advising that it may be a good idea to check the relevant information with employees before submitting the information to HMRC.

If you do not have a NINO for an employee then the employee's full postal address will have to be reported to HMRC **each time you pay them!**

When will RTI start?
The majority of employers will start reporting in real time from April 2013. All employers will be reporting under RTI from October 2013. New employers setting up their payroll scheme from now on will be offered the opportunity to begin operating under RTI from the outset.

Employer Alignment Submission (EAS)
An EAS is compulsory for large employers however it may be advisable for all but the most straightforward of payrolls. This is because the EAS allows an employer to agree employee information with HMRC prior to the first RTI payroll run, rather than waiting for errors to be spotted at the time of payment.

The EAS allows HMRC to validate the employee information held on an employer's payroll so that any discrepancies can be sorted out in advance.

Full Payment Submission
The first Full Payment Submission (FPS) an employer makes to HMRC will include details of all employees. This would include:

- employees currently on the payroll
- employees who left before the current payroll run, (but were employed in 2013/14) including the leaving date shown on their P45
- employees you are not paying this time, perhaps because they are on maternity leave or an unpaid absence, or because you pay them quarterly or annually.

Any subsequent FPS will only include details for those employees that an employer is paying for that pay period. The information included in the FPS includes not only the pay but details statutory payments and deductions made from the individual.

Payroll processing

The payroll FPS an employer makes each pay period must be sent to HMRC on or before the date employees are paid. Therefore, employers may need to introduce an earlier cut off date for pay periods after which you will be unable to make any changes for that pay period.

Employer Payment Summary

Employers may also have to make a further return to HMRC each month (EPS) to cover the following situations:

- where no employees were paid in the tax month
- where the employer has received advance funding to cover statutory payments
- where statutory payments are recoverable (such as SSP, SMP, OSPP and ASPP) together with the SMP NIC compensation payment
- where a NIC holiday is being claimed or
- where CIS deductions are suffered which could be offset (companies only).

HMRC will offset the amounts recoverable against the amount due from the FPS to calculate what should be payable. The EPS needs to be with HMRC by the 19th of the month to be offset against the payment due for the previous tax month.

Payments to HMRC

Please bear in mind that under RTI HMRC will be aware of the amount due on a monthly/quarterly basis. This will be part of the information reported to HMRC through the FPS and EPS.

HMRC will expect to receive the PAYE and NIC deductions less the payments each month or quarter (small employers only).

Some further complications

Wages

Under RTI it will not be possible to put through wages at the year end of the business and assume this has been paid throughout the year, for example to utilise a family member's national insurance lower earnings limit which gives them a credit for state pension and statutory payment purposes.

Wages should be paid regularly and details provided to HMRC through the RTI system on a timely basis.

Casuals

The HMRC guidance on RTI includes rules which will be difficult for some employers to work within. For those employers who have casual staff the following HMRC guidance will cause difficulties:

'Under RTI employers operating PAYE will have to tell HMRC about payments of earnings to all employees, even where an employee earns less than the lower earnings limit (LEL), currently £107 a week. This is a change from the current situation where employers do not have to maintain a P11 if someone for example earns £20 a month, being well below the LEL.'

Employers who have casual staff currently let HMRC have details of their pay at the end of the year using a P38A. Unfortunately, this procedure is not available under RTI.

The end of the P35 procedures

Under RTI the P35 procedures will no longer be necessary. For most employers therefore the last P35 form which will need to be completed will relate to 2012/13.

RTI 'relaxation' for small employers

HMRC have announced that, for some smaller employers, they will relax the reporting requirement for RTI that payments to employees should be reported **on or before** the amount is paid to the employee.

The relaxation for small employers (those with fewer than 50 employees) who pay employees weekly, or more frequently, but only process their payroll monthly may need longer to adapt to reporting PAYE information in real time. HMRC have therefore agreed a relaxation of reporting arrangements for these small employers.

Until 5 October 2013 employers with fewer than 50 employees, who find it difficult to report every payment to employees at the time of payment, may send information to HMRC by the date of their **regular payroll run but no later than the end of the tax month**.

Incorporation

The issue of whether to run your business as a company or a sole trader or partnership is an important decision. In this article, we summarise the relevant tax changes and show the potential tax savings currently available from operating as a company.

The summary below calculates the position for 2013/14.

In addition we consider other relevant factors including potential disadvantages.

Tax savings

The examples below give an indication of the 2013/14 tax savings that may be achievable for husband and wife who are currently in partnership.

Profits:	£30,000	£50,000	£100,000
Tax and NI payable:	£	£	£
As partners	3,809	9,609	26,292
As company	2,922	6,922	16,922
Potential saving	887	2,687	9,370

The extent of the savings is dependent on the precise circumstances of the couple's tax position and may be more or less than the above figures. The examples are computed on the basis that the couple:

- share profits equally
- have no other sources of income
- both partners take a salary of £7,696 from the company with the balance (after corporation tax) paid out as a dividend.

Summary of relevant NI rates

National Insurance
The rate of employees' NIC is 12%. A 2% charge applies to all earnings over the NIC upper earnings limit (which is £41,444 from 6 April 2013).

The rate of NIC for the self-employed is 9%, and 2% on profits above £41,450 from 6 April 2013.

All NI contributions can be avoided by incorporating, taking a small salary up to the threshold at which NI is payable and then taking the balance of post-tax profits as dividends.

Pension provision
As an employee/director of the company, it should be possible for the company to make pension contributions (subject to limits) to a registered fund irrespective of the salary level, provided it is justifiable under the wholly and exclusively rule. Such contributions are deemed to be a private expense for sole traders or partners.

Other tax issues

It is all too easy to focus exclusively on the potential annual tax savings available by operating as a company. However, other tax issues can be equally, and in some cases more significant and should not be underestimated.

Capital gains
Incorporating your existing business will involve transferring at least some of your assets (most significantly goodwill) from your sole trade or partnership into your new company. This can create significant capital gains although there are mechanisms for deferring these gains until any later sale of the company. We will need to discuss in detail with you the most appropriate mechanism for your business. Any gains which are chargeable may qualify for Entrepreneurs' Relief, which means that gains currently up to £10 million are charged at 10% rather than 18% or 28% depending on your income tax position for the year of disposal. However its availability will depend on various factors and will require detailed discussion.

Stamp Duty Land Tax (SDLT)
There may be SDLT charges to consider when assets are transferred to a company. Goodwill and debtors do not give rise to a charge, but land and buildings may do so.

Other advantages

There may be other non-tax advantages of incorporation and these are summarised below.

Limited liability
A company normally provides limited liability. If a shareholder's shares are fully paid he cannot normally be required to invest any more in the company. However, banks often require personal guarantees from the directors for borrowings. The advantage of limited liability will generally apply in respect of liabilities to other creditors.

Legal continuity
A company will enjoy legal continuity as it is a legal entity in its own right, separate from its owners (the shareholders). It can own property, sue and be sued.

Transfer of ownership
Effective ownership of the business may be more readily transferred, in comparison to a business which is not trading as a limited company.

Borrowing
Normally a bank is able to take extra security by means of a 'floating charge' over the assets of the company and this will increase the extent to which monies may be borrowed against the assets of the business.

Credibility
The existence of corporate status is sometimes deemed to add to the credibility or commercial respectability of the business.

Pension schemes
The company could establish an approved pension scheme which may provide greater benefits than self-employed schemes.

Staff incentives
Employees may, with adequate safeguards, be offered an opportunity to acquire an interest in the business, reflecting their position in the company.

.

Disadvantages

No analysis of the position would be complete without highlighting potential disadvantages.

Administration
The annual compliance requirements for a company in terms of administration and accounting tend to result in costs being higher for a company than for a sole trader or partnership.

Annual accounts need to be prepared in a format dictated by the Companies Act and, in certain circumstances, the accounts need to be audited by a registered auditor.

Details of the directors and shareholders are filed on the public register held by the Registrar of Companies.

Privacy
The annual accounts have to be made available on public record - although these can be modified to minimise the information disclosed.

PAYE/Benefits
If you do not have any employees at present, you do not have to be concerned with PAYE and returns of benefits forms (P11Ds).

As a company, you will need to complete PAYE records for salary payments and keep records of expenses reimbursed to you by the company.

Forms P11D may have to be completed.

Dividends
If you will require regular payments from your company, we will need to set up a system for you to correctly pay dividends.

Transactions with the business owner
A business owner may introduce funds to and withdraw funds from an unincorporated business without tax implications. When a company is involved there may be tax implications on these transactions.

Director's responsibilities
A company director may be at risk of criminal or civil penalty proceedings e.g. for late filing of accounts or for breaking the insolvency rules.

Entrepreneurs' Relief

Entrepreneurs' Relief may be available for certain business disposals for a higher/additional rate payer has the effect of charging the first £10m of gains qualifying for the relief at an effective rate of 10%. The lifetime limit has previously been £5m, £2m and £1m since the introduction of the relief.

The relief will apply to gains arising on a disposal of:

- the whole, or part, of a trading business that is carried on by the individual, either alone or in partnership;
- shares in a trading company, or holding company of a trading group, provided that the individual owns broadly a 5% shareholding and has been an officer or employee of the company;
- assets used by a business or a company which has ceased;
- assets used in a partnership or by a company but owned by an individual, if the assets disposed of are 'associated' with the withdrawal of the individual from participation in the partnership or the company.

Restrictions on obtaining the relief on an "associated disposal" are likely to apply in certain specific situations. This includes the common situation where a property is currently in personal ownership, but is used in an unquoted company or partnership trade in return for a rent. Under ER the availability of relief is restricted where rent is paid from 6 April 2008 onwards.

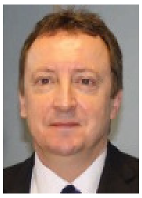
What is clear is that careful planning will be required with ER but if you would like to discuss ER in detail and how it might affect your business, please do get in touch.

How we can help

If you would like to discuss any of the articles covered in this newsletter, please do not hesitate to contact us for further advice.

Scott Sanderson
Manager – Healthcare Sector
ss@hawsons.co.uk
0114 266 7141

Peter Kennan
Partner - Sheffield
pjk@hawsons.co.uk
0114 229 6511
07836 794 799



Richard Marsh
Partner - Doncaster
rwm@hawsons.co.uk
01302 367 262

David Cairns
Partner - Northampton
davidcairns@hawsons.com
01604 645 600