Talking Tax

DRIVING LIFELONG PROSPERITY

Spring 2018

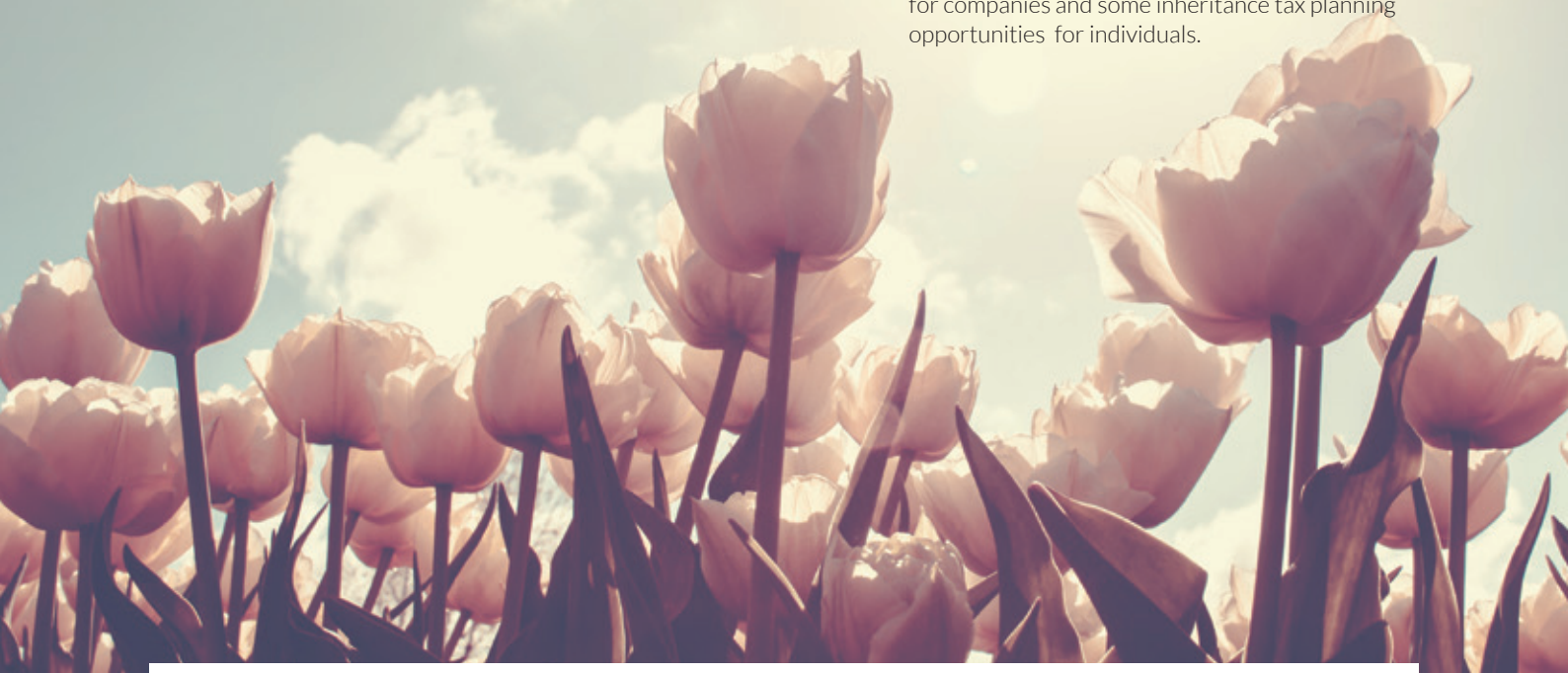
SPOTLIGHT ON FIRST-TIME BUYERS RELIEF

Welcome...

to the spring 2018 Talking Tax. As a new tax year starts, inevitably there are new tax rules to get to grips with! In this issue, we summarise some of the key changes from April 2018 and look at two proposed changes from April 2019, the first affecting overseas property investors and the second UK VAT registered businesses.

Following the Autumn Budget announcement, we also delve into the new SDLT exemption for first-time buyers in a bit more detail and highlight some traps for the unwary.

Lastly, we look at innovation tax reliefs available for companies and some inheritance tax planning opportunities for individuals.



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INSIDE

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First-time buyers exemption from SDLT

The biggest tax announcement in the Chancellor's first Autumn Budget was an exemption from Stamp Duty Land Tax (SDLT) for first-time buyers.

The government estimates that 80% of all first-time buyers will pay no SDLT as a result of the new exemption and a further 15% will pay SDLT at a reduced rate.

The Chancellor announced, during his Spring Statement on 13 March, that around 60,000 first-time buyers have already benefited from this relief since it was introduced less than four months ago.

THE EXEMPTION

First-time buyers purchasing a home worth less than £300,000 are now completely exempt from SDLT.

First-time buyers of homes worth between £300,000 and £500,000 are exempt from SDLT on the first £300,000 and will pay the normal rate of 5% on the remaining amount.

First-time buyers of homes above £500,000 will pay SDLT at the normal rates.

The objective of the exemption is to help first-time buyers get onto the property ladder, by removing one of the big upfront costs. The government estimate this new relief will help over a million first-time buyers take that first step with SDLT savings of up to £5,000 under the new exemption.

HUSBAND AND WIFE PURCHASES

For joint purchases, both parties must be first-time buyers. If one party has previously purchased a property, SDLT will be payable in full at the normal rates.

If, the spouse, who is a first-time buyer, was to purchase a house independently, however, they may be able to benefit from the exemption subject to certain conditions.

Example 1

Tom and Rita are currently living in a property owned by Tom but wish to sell this and purchase a new house worth £275,000 that will be their main home going forward. Rita has not previously owned a property.

If they jointly purchase the new house SDLT will apply at the normal rates and £3,750 will be payable. If, however, Rita were to purchase the property in her sole name, as a first-time buyer, no SDLT would be due.

WATCH OUT FOR...

It should be noted that if one spouse decides to purchase a property in their sole name, they must be in a financial position to allow them to do so. For example, if a mortgage is required the spouse must be able to take this out independently.

More importantly, there is a further catch to be aware of if going down this route but at some point in the future are thinking of transferring part ownership to a spouse.

The new rules include a clawback mechanism for the SDLT relief if, at any later date, there is a linked transfer which would have made the original transaction ineligible for the relief. Examples of this could include something that takes the consideration above the £500,000 or gifting part, or all, of the property to a spouse at a later date, who has previously owned a property.

Taking our example, if Rita was to gift 50% of the property to Tom 10 years later, the rules suggest that SDLT would become chargeable on the original transfer and an SDLT return must be filed declaring the liability.

Example 2

Sarah and Matthew are married and living in a property owned by Sarah but Matthew wants to invest in a buy-to-let property worth £275,000. This would be his first property purchase.

As Matthew is a first-time buyer you might expect that he would not be subject to SDLT under the new rules as the sole investor. However, the new rules state that the relief is not available where the 3% SDLT surcharge rules apply for the purchase of additional residential properties.

Under these rules, spouses are considered as one person and, as Sarah already owns a property, and the property being purchased is not a replacement of their main residence, the surcharge will apply. In this case, therefore, the SDLT bill will be £12,000 regardless of whether Matthew purchases the property in his sole name or jointly with Sarah.

This could be a very unwelcome surprise, with a significantly higher bill than expected for Matthew if he had been expecting a complete exemption under the first time buyer rules, or, even if he had just been expecting to pay SDLT at the standard rates.

NEED HELP?

If you are unsure as to whether you are eligible for relief under the new first-time buyers exemption and/or whether the 3% surcharge on additional property purchases will apply, please get in touch.

A new tax year, new tax rules

The start of a new tax year inevitably brings some new tax rules. We have set out some of the key changes below.

DIVIDEND ALLOWANCE REDUCED TO £2,000

New rates for the taxation of dividends were introduced in April 2016 along with a tax-free Dividend Allowance. The allowance meant that no income tax was due on the first £5,000 of dividend income received.

Just two years on and the government have decided that they were a little too generous, so from April 2018 this tax-free amount reduces to £2,000. Depending on the rate at which you pay tax, this change could result in additional tax of between £225 and £1,143 for the 2018/19 tax year.

A remuneration planning review for the new tax year may therefore be needed to take into account this change and ensure reliefs and allowances are maximised as far as possible. For owner managed business, up to £19,850 could be taken home tax-free (and double that for couples) in 2018/19 with the right combination of salary, interest and dividends.

OTHER ALLOWANCES

From April 2018, the personal allowance increases to £11,850 (£11,500 in 2017/18) and the basic rate tax band increases to £34,500 (£33,500 2017/18).

The capital gains tax annual exemption also increases to £11,700 (£11,300 2017/18).

FINANCE COST RESTRICTIONS FOR RESIDENTIAL PROPERTIES

The phased in restrictions on finance costs on residential property buy-to-lets continues for 2018/19. 50% of interest paid will be fully deductible against property income, with the other 50% restricted to basic rate tax relief compared to 75% and 25% respectively in 2017/18.

Higher and additional rate landlords will be the main individuals affected by these rules, but in some cases basic rate taxpayers could also be tipped into the higher rate band. The calculation is not straightforward and a review of your effective tax rate taking into account the full effect of the new rules would be advisable. There are options which can be explored to help minimise and in some cases mitigate these rules which we would be happy to advise on.

RESIDENCE NIL RATE BAND

April 2017 introduced an additional nil-rate band, which allows for a residence to be passed on death to a direct descendant without an inheritance tax charge. This was set at £100,000 in April 2017 and rises to £125,000 for deaths on or after 6 April 2018. By 2020, the nil-rate band available will be £175,000.

The nil-rate band will be tapered away where the net value of the estate is more than £2 million. This band is in addition to the £325,000 nil-rate band for inheritance tax. A couple could, therefore, now have an estate of up to £900,000 before paying any inheritance tax (and £1 million by 2020).

CLASS 2 NATIONAL INSURANCE CONTRIBUTIONS (NIC)

From April 2018, Class 2 NIC was expected to be abolished, however, the Autumn Budget announced that this will now be delayed until April 2019.

TERMINATION PAYMENTS

From April 2018, all payments in lieu of notice (PILON) on termination of an employment will be fully taxable. Previously, only contractual PILONs were subject to tax.

Taxable termination payments will also be subject to employer's NIC from April 2019 (pushed back from April 2018, along with the above proposals).

EIS/SEIS/VCT INVESTMENTS

The Autumn Budget also announced some changes for investors into companies under the Enterprise Investment Scheme (EIS), Seed EIS (SEIS) and Venture Capital Trust (VCT) arrangements.

Income and capital gains tax reliefs associated with these investments will be withdrawn for investments in companies with a low 'risk-to-capital' unless the following two conditions are met:

1. the issuing company must have plans to grow and develop its trade in the long term; and
2. the investment must carry a significant risk the investor will lose more capital than they gain as a return.

The rules apply for investments made on, or after, 15 March 2018.

Innovation tax reliefs – are you missing out?

There has been a longstanding misconception that only hi-tech companies can apply for R&D tax credits. The latest statistics from HMRC, however, show that this perception might finally be changing with a 22% rise in claims in the past year by small and medium enterprises (SMEs).

Although this is a positive shift, research shows that many companies are still missing out on the valuable tax reliefs available.

REGIONAL STATISTICS

HMRC stats show that the South West was slightly below the national average growth in claims, but still saw a 17% increase with over 2,000 R&D claims submitted in 2015/16. The total amount of R&D support for the region totalled £130 million, £5 million higher than the previous year.

There is a similar story for Patent Box claims. In the South West 100 Patent Box claims were submitted in 2014/15, up from 65 in the prior year. The total amount of relief claimed rose to £43.5 million, over three times the relief claimed in the prior year.

In the year to 30 April 2017, the Hazlewoods Innovation & Technology team identified qualifying expenditure of £28.5 million for our clients, generating R&D tax repayments of nearly £4.2 million. In addition, we completed Patent Box claims generating tax savings just shy of £1 million.

WHO CAN CLAIM?

Any companies that are developing new ideas, products and processes could potentially benefit from an innovations tax claim. The tax reliefs available could help the company save considerable amounts of money, freeing up funds to further invest in development.

Claims are not restricted to those companies in the technology sector, we have prepared claims for companies across diverse sectors including; food and drink, health and beauty, automotive and aerospace.

INHERITANCE TAX PLANNING

Inheritance tax planning is not something people like to think about. Unfortunately though it should not be ignored as it involves the only two certainties in life, as famously cited by Benjamin Franklin, death and taxes.

WHAT IS INHERITANCE TAX?

Inheritance tax (IHT) is paid on an individual's assets when they die and on certain settlements on trusts or gifts during their lifetime.

RATES AND THRESHOLDS

The standard rate of IHT is 40% on the value of an estate above the IHT threshold (currently £325,000). This is reduced to 36% if at least 10% of the individual's estate is given to charity on death.

A new residence nil rate band has also been introduced, allowing value of up to £125,000 (for 2018/19) to pass to a direct descendent free of IHT.

By 2020, the potential inheritance tax free amount will reach up to £1 million for couples, a highly marketed figure by the government. There are, however, some caveats and conditions to this, including a restriction on the residence threshold where the estate is worth more than £2 million.

PLANNING AHEAD

Planning early on could help to significantly reduce a future inheritance tax bill. Before looking at where tax can be saved, however, a number of decisions need to be made.

For example, whether you would like to begin passing down your wealth now and, if so, whether this will be out of income or capital, or a combination of both. Taking an overall view of

WHAT ARE THE RELIEFS?

The relief available depends on the size and profitability of the company. As an indication the effective cash value for R&D claims based on rates as of 1 January 2018 are:

- Small and medium sized companies:
  - Loss making – 33.35%
  - Profitable – 24.7%
- Large companies – 9.72%

Patent Box profits are taxed at a rate of 10% rather than the current Corporation Tax rate of 19%.

Some typical costs which can be included in a claim are:

- Staff and agency costs for time spent on R&D (including salary, employer's NIC and pension contributions)
- Consumables including materials used and utility costs.
- Certain payments to sub-contractors
- Prototype costs

COMMON MYTHS

1. **The work we do isn't R&D.**
   Many companies we speak to think that because they are not a science or technology company they cannot be carrying out R&D activities. This is not the case and the definition for tax purposes is actually much broader. A company that is innovating, improving or developing a new product, process or service is likely to be carrying out R&D.
2. **The development project was not successful so I won't be able to claim.**
   This is not true. Actually, an aborted or failed project can help to demonstrate that the advance in technology was not easily achievable and can be a positive indicator that R&D is taking place.
3. **We subcontracted the project to another company or another company subcontracted the project work to us.**
   The rules around this are a bit more tricky, but an R&D tax claim is often still possible. To help ascertain this, it will be important to have a clear picture of who the work has been contracted to/from, the associated costs and the type of work.
4. **I can't make an R&D claim because we made a loss.**
   The relief for loss making companies is actually higher (up to 33.35% of development costs compared to 24.7% for profitable companies). Loss making companies can also claim a payable tax credit, so receive money back from the government!
5. **It is not worthwhile filing a patent box claim since the rules have tightened.**
   The new rules only look to restrict a patent box claim where the R&D expenditure was incurred by a group company or if the IP was acquired. We can take a look to confirm eligibility and potential tax savings under the regime.

HOW WE CAN HELP

If you would like to discuss whether you might be able to file an R&D tax and/or patent box claim or if you would like further information on the tax incentives available please contact David Clift on 01242 237661 or David.Clift@Hazlewoods.co.uk

your current assets and income, as well as projections for the future, will help to ensure that you can still live the lifestyle you wish whilst beginning to pass down your wealth in a tax efficient manner.

The key benefit from passing down assets or gifting money whilst still alive is no inheritance tax will be due on those assets on death, providing they were gifted more than seven years before.

Certain lifetime gifts are also exempt from IHT, even if death occurs within seven years, including:

- Gifts to UK registered charities
- £3,000 annual exemption
- Small gifts of up to £250 to any number of people
- Wedding gifts (limits depend on the relationship with the married couple but a minimum of £1,000)
- Gifts made as normal expenditure out of income.

If you are not in a position to start passing down your assets and/or income or want to enjoy your wealth in the current term, it is still possible to plan for the future and ensure that reliefs and allowances can be maximised on death.

Ensuring Wills are drafted tax efficiently and up to date, is a good first step. Leaving assets qualifying for reliefs such as Business Property Relief and Agricultural Property Relief to children rather than a spouse can also help to ensure that these reliefs are not wasted.

Also, the use of trusts and/or legacies to a charity can be considered.

HOW WE CAN HELP

We can help with inheritance tax planning, cash flow modelling and tax efficient investments. Our tax and financial planning experts work together to ensure that your tax bill is minimised whilst protecting your wealth.

MAKING TAX DIGITAL PLANS FOR VAT

As of April 2019, all VAT registered businesses with a taxable turnover above the VAT registration threshold will be required to maintain digital records as part of HMRC's push towards Making Tax Digital (MTD). This applies to all taxpayers irrespective of their trading style or status, and so will affect the vast majority of the VAT landscape, bar a few exemptions, and will encompass all existing VAT simplification schemes.

The primary aim of MTD is to make tax administration more effective, efficient, and easier for taxpayers through the use of a fully digitised tax system, whilst reducing HMRC's costs in overseeing the tax system. For some this will represent a major shift in how VAT is handled, requiring a move from paper records to digital files, whilst for others it will merely mean ensuring their existing arrangements are MTD compliant.

MTD is the next logical step in HMRC's evolution of the UK's VAT reporting system. As of 2012, all VAT-registered traders have had to file their periodic returns electronically through HMRC's VAT portal, using a dedicated account. MTD extends this provision so that the reporting itself is electronic, the return information being supplied to HMRC by MTD-compatible software.

Currently HMRC is working with major software providers to ensure their existing products or new product lines will work with MTD ahead of the go live date. HMRC is also confident that free software will be in the marketplace by the time MTD goes live, and so there should not be a monetary cost to smaller businesses. There is an inherent risk to businesses that use bespoke software that they will not have the product redesigned in time for the change, and care will need to be taken that such products are included in the move across to the new regime.

Where a taxpayer uses spreadsheets to record data, these will be permitted under MTD as being a digital record. However, they must be part of a seamless digital flow of data from the business to HMRC; there can be no manual entry of spreadsheet data to HMRC's systems. The flow of data from one program to another must be undertaken using Application Program Interfaces (APIs), and any digital system that does not do so will not be considered to be permitted under MTD.

The following categories will be exempted from undertaking MTD as a compulsory matter, but may do so on a voluntary basis:

- VAT registered businesses whose taxable turnover is below the VAT registration threshold, i.e. those businesses who are voluntarily registered;
- Taxpayers who are 'digitally excluded', defined as those who cannot engage with accounting software on the basis of
  - religion;
  - disability;
  - age; or
  - remoteness of location.

Anyone who believes they are digitally excluded for a specific reason, and can demonstrate such a case to HMRC, will also be considered for exemption on a case-by-case basis.

The next step for all VAT registered businesses is to consider how their reporting process may need to change to meet the post April 2019 legislation. Whilst HMRC have confirmed a 'soft landing' in terms of MTD reporting, the requirement to be compliant is coming.

HMRC TAX NET CAST WIDER FOR OVERSEAS INVESTORS IN UK PROPERTY

A consultation was released as part of the Autumn Budget with plans to extend the rules on the taxation of disposals on UK properties for non-residents.

CURRENT RULES

Prior to 6 April 2015, it was possible for a non-resident person selling a UK property to escape a UK tax charge.

In 2015, the government changed the rules so that a sale of a residential property would be subject to capital gains tax (CGT), but only on the increase in value of the property from the date the new rules took effect.

PROPOSALS

The government has since announced that they are looking to extend this rule to all UK properties such that disposals of commercial properties will also become subject to CGT from April 2019.

As with the 2015 changes, provisions will be put in place so that properties will be rebased as at April 2019 so that CGT will only be levied on gains accruing from the commencement date of the new rules.

There will also be the option to elect for the gain to be calculated based on the 'full calculation' i.e. from the date it was acquired rather than rebasing. This could be of benefit where the property has a lower value at April 2019 than its acquisition value.

The rules will also be extended to include indirect disposals of properties via a company, partnership or property unit trust. For these rules to kick in, the non-resident investor must hold at least a 25% share in an entity which derives 75% or more of its gross asset value from UK property.

The upside of the new legislation is that any CGT or corporation tax losses realised on these disposals will be available for offset against other property/company gains.

ADMIN

A return will need to be filed and tax paid within 30 days of the disposal. If the individual is already registered for self-assessment, however, the tax can be deferred until the normal payment date.

In the case of a company, it will need to register for self-assessment and file a return based on a one day accounting period unless it is already registered for UK corporation tax.

LAST CHANCE SALOON FOR OFFSHORE DISCLOSURES

Individuals, companies and trusts have just six months left to report and correct any 'offshore matters' that have given rise to a UK tax liability before facing significant penalties.

REQUIREMENT TO CORRECT – THE NEW RULE

A new rule, known as Requirement to Correct (RTC), has been introduced requiring those with undeclared offshore tax liabilities relating to a matter prior to 5 April 2017 to disclose these to HMRC before 30 September 2018.

The relevant taxes included under RTC are Income Tax, Capital Gains Tax and Inheritance Tax.

For those who fail to correct, the penalty applied will be set at 200% of the undisclosed tax liability. This could potentially be mitigated down to 100% but this is the minimum penalty. In addition, if the behaviour is deemed deliberate, a tax-geared penalty could also be applied and potential naming and shaming by HMRC.

IS THIS REALLY IT?

Various disclosure facilities have been offered by HMRC over the years, however, this appears to be the final chance.

The main reason for this final stop date is that by then HMRC will be sharing information with over 100 countries and will, therefore, be able to more easily detect offshore non-compliance.

Prior to this, detection was much more difficult and so the 'carrot' approach of amnesties with the promise of immunity from prosecution (in some cases) and reduced penalties was taken.

If you have any concerns or questions as to whether you may need to make a disclosure, please get in touch with a member of our tax team.

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