Property Focus

DRIVING LIFELONG PROSPERITY

Summer 2019

SPOTLIGHT ON TRADING AND INVESTING

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Making Tax Digital is now live

From 1 April this year, Making Tax Digital (MTD) has become the requirement for VAT. It applies to all taxpayers whose taxable turnover is more than the registration threshold, and is in force from the first full reporting period commencing on or after 1 April.

This new way of declaring information to HMRC will not give them any new access to records, and the submissions will still only consist of the same nine boxes that the Government Gateway submissions did. However, it does mean taxpayers who fall within the remit of the scheme must both keep their records in a digital format, and submit those records to HMRC digitally. This can be through the use of dedicated accounting software such as Xero, or by using so-called 'bridging software'.

Using bridging software allows you to take records from non-MTD systems and use digital links to flow these records through a spreadsheet, and from that spreadsheet the software can submit them to HMRC. All the data must be linked digitally; there can be no manual overtyping.

For those of you requiring bridging software and advice around how to use it, Hazlewoods has invested in software and can assist you with the implementation of MTD and submitting your returns. We have also produced a template that can be utilised for preparing your return data ready for submission through the software.

If you are one of the more complex taxpayers, for example part of a group registration, then there is a six-month delay to MTD going live for you, but it will be commencing from 1 October. HMRC should have already written to you to advise you of this delay.

If you have any questions about how to implement MTD or how it may impact you, speak to **Julian Millinchamp** or one of our Indirect Tax team at the Cheltenham office on **01242 237661**.

Property held in a limited company – is it trading or is it investment property?

At the end of the day it comes down to intention, what are your plans for this property? Do you intend to develop it to sell in the near future, with a view to making a profit, or hold on to it long term to generate a rental income and/or for capital appreciation? If the former then it is trading, the latter, it is an investment.

The UK accounting standard FRS 102 defines 'investment property' as:

'Property (land or a building, part of a building, or both) held by the owner, or by the lessee under a finance lease, to earn rentals or for capital appreciation or both, rather than for:

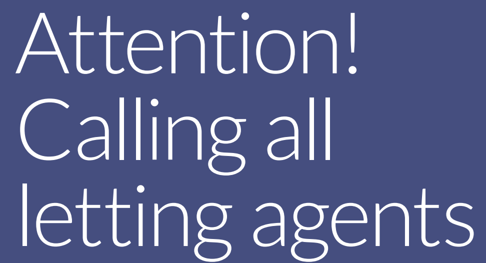
1. use in the production or supply of goods or services, or for administrative purposes; or
2. sale in the ordinary course of business.

If you are developing property for resale, with the intention to retain part of the development as a long-term investment, make that decision at the outset, identify those properties for retention and always document your intention.

It is important to get this right from the start, changing your mind somewhere down the line can have significant tax consequences. We understand that this cannot always be avoided but please be aware of the tax implications of doing so.

From an accounting perspective, properties held for development and re-sale should be shown as development 'stock and work in progress'. However, if the property is held for investment, include it in your list of fixed assets. At each year-end, investment property is reported at its 'fair value' (this is the amount for which the property could be sold, between willing parties in an arm's length transaction).

If the fair value of the property cannot be reliably measured without undue cost or effort to the company, an exemption is available and the property is reported at cost. However, please note that, for periods beginning on or after 1 January 2019, this exemption has been withdrawn from the legislation leaving companies with the annual challenge of determining the fair value of investment property.



The Fifth Money Laundering Directive (5MLD), was passed in June 2018 amending the Fourth Money Laundering Directive (4MLD). 5MLD will introduce a number of important changes, one of which extends the scope of the money-laundering regime, to include letting agents, for property with a monthly rent of €10,000 or more.

Under the current directive 4MLD estate agency work falls within the scope but 5MLD extends this to include those involved in letting activities only and will require the sector to be registered and carry out client due diligence (CDD).

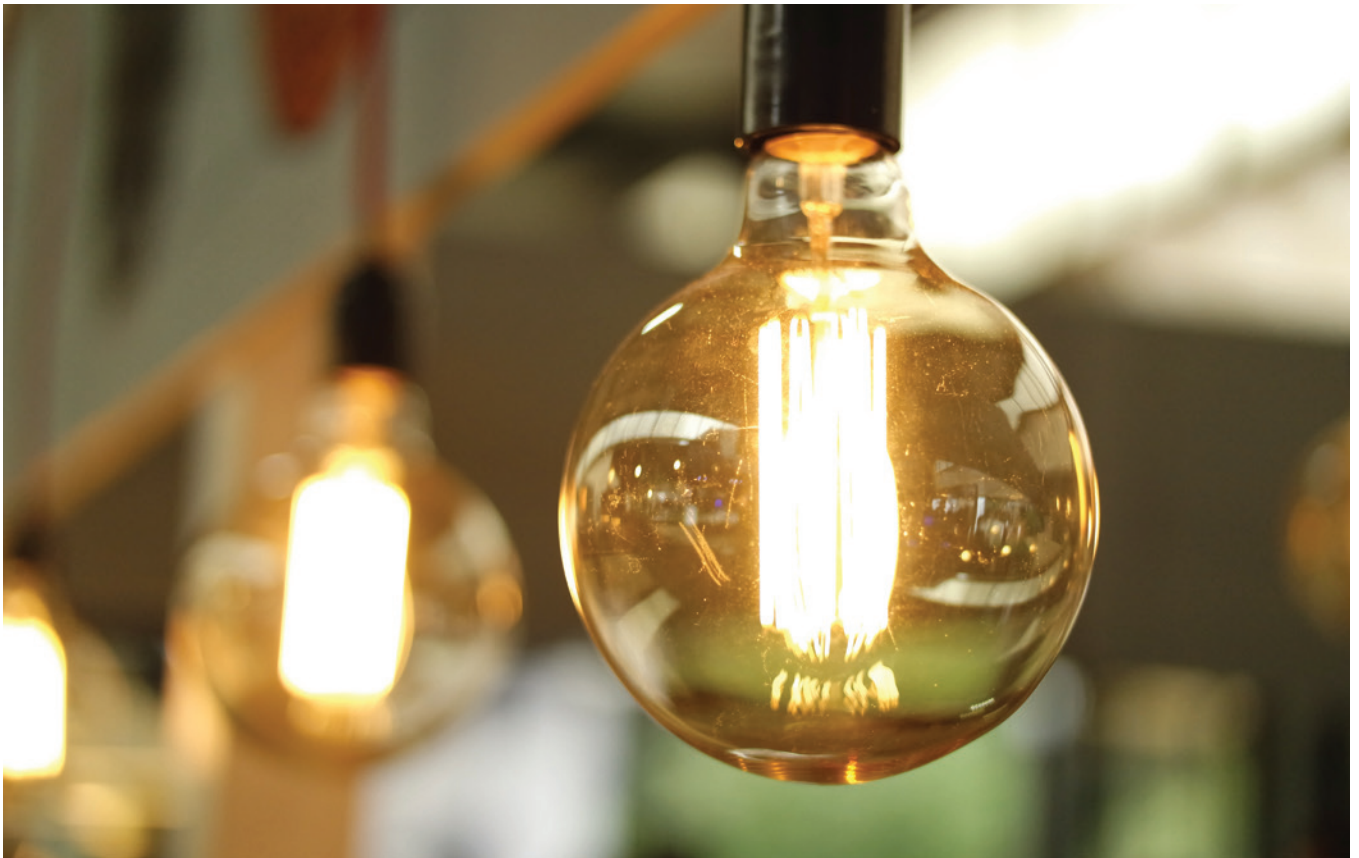
The UK government launched a consultation on its proposals for transposition of the 5MLD.

The Treasury is consulting on:

- how it should define 'letting';
- who should fall within the scope – landlords and tenants or landlords only;
- should it be further extended to include property management and rent collection;
- at which point should the client due diligence (CDD) be completed; and
- whether the €10,000 threshold is too high or should be reduced to cover a higher percentage of transactions.

The aim of the latest directive is to improve transparency and more effectively counter money laundering and terrorist financing across the EU. Of course, the impact of Brexit needs to be considered, however, as 5MLD reflects the UK government's current approach, it is unlikely that Brexit will have any noticeable effect.

In accordance with 5MLD, the changes must come into effect, through UK law, by 10 January 2020.



Capital allowances s198 - use it or lose it

Since April 2014, action has been needed to be taken when acquiring a commercial property, otherwise valuable tax relief could be lost.

Capital allowances are a form of tax relief, given when acquiring qualifying plant and machinery. When acquiring a commercial property, certain qualifying plant and machinery are hidden within the building but, nevertheless, still qualify for relief. These are referred to as 'fixtures' and might include electrical and lighting systems, cold water systems, ventilation systems and lifts.

Before 2014, it was a little arbitrary in terms of who had claimed allowances over the life of the building and what the new owner was entitled to claim, so new rules were introduced, to ensure consistent treatment.

When acquiring a commercial property, there are two requirements:

1. fixed value requirement; and
2. pooling requirement.

The fixed value requirement is met if a schedule is produced detailing the fixtures that are being transferred and the value attributable to them. This is often documented in a s198 election, which can be signed by the seller and buyer within two years of the acquisition. It is always advisable to get the election signed as part of the transaction, rather than trying to agree it afterwards.

In the absence of a s198 election, the buyer can apply to the tax tribunal, again within two years, for them to determine the value that should be brought into account. As a seller, clearly, you would not want to be at the mercy of an independent determination.

The pooling requirement is met if the seller has brought into their capital allowances pool the items that are being transferred with the building (providing they were legitimately able to claim allowances on them). So, if the seller has not claimed allowances, but was able to do so, they will need to reflect them in their tax computations and show the disposal value, before the buyer can claim any relief.

Failure to meet these two requirements will mean the ability to claim allowances on those transferred fixtures will be lost forever.

Obtaining full details of capital allowances on form CPSE.1 is now essential to plan effectively for tax relief in the future. Answers of 'not applicable' should no longer be considered acceptable.

R&D tax credits – are you missing out?

The construction industry contributed £113 billion to the UK economy in 2017, underlining its importance in pushing the UK economy forward. The industry is constantly evolving with new technology, perhaps in terms of tackling difficult ground conditions, health and safety advances or going 'greener'. It is, therefore, surprising that the construction industry only accounts for 2.5% of R&D tax credit claims being submitted to HMRC.

For most businesses, the relevant scheme is the one for small and medium sized enterprises. This provides tax relief for 230% of the costs involved in the research and development. If that results in a loss, the credits can be surrendered for a payable tax credit of 14.5%. In addition, for any capital expenditure incurred in respect of the R&D, 100% relief can be obtained.

For large companies, an alternate scheme is available, which provides an effective rate of about 10p in every £1 of qualifying R&D expenditure.

If you believe that something you have been working on could have an impact that extends outside of your business and can assist others, there is likely to be some form of reward available through the R&D scheme. The relief is waiting to be claimed, and we can help you claim it.

VAT 'reverse charge' process to apply in construction sector

Under the reverse charge process, it is the customer, rather than the supplier, who accounts directly to HMRC for VAT on a supply. HMRC considers that such a mechanism helps to deter 'Missing Trader' fraud (where a supplier charges output tax to its customer but fails to account to HMRC for the VAT collected). They consider that such fraud in construction sector labour supply chains presents a significant risk to the Exchequer and consequently, a reverse charge mechanism for 'specified services' is to be introduced on 1 October 2019. To read the full article and find out how we can help visit **bit.ly/prop-focus**

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