Talking Tax

DRIVING LIFELONG PROSPERITY

Winter 2020

SPOTLIGHT ON WINTER SUPPORT MEASURES

Welcome...

It is safe to say that no one could have predicted the year that we have had, nor the challenges that many businesses and individuals have faced as a result. As the coronavirus pandemic continues, however, much uncertainty still remains. In this issue, we have summarised the various measures made available by the Government to support individuals and businesses during the winter months.

We also highlight a few key changes ahead and what action to take in readiness, as well as looking to the future by considering inheritance tax planning for individuals and some restructuring opportunities for businesses.

Finally, although Brexit has taken a backseat in recent times, we are approaching the end of the transition period. We explain the key implications for VAT once we have formally withdrawn from the EU.

INSIDE

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COVID-19 support for the winter months

Various announcements of support during the winter have been announced by the Government. We have summarised the ongoing support available and when you may be eligible to claim.

	WHO CAN CLAIM	ELIGIBILITY CRITERIA
Coronavirus job retention scheme (CJRS)	Employers (for employees' wages)	→ Open to all employers with a UK payroll and UK bank account → Any employee who is on the payroll as at 30 October 2020 and has made an RTI submission to HMRC by that date, is eligible for furlough. → Employer nor the employee needs to have accessed the furlough scheme previously to be eligible
Self-employed income support scheme (SEISS)	Self-employed	→ Must have been eligible under the rules for the first two grants (even if didn't claim). → Must be actively trading but subject to reduced demand due to COVID-19 in the relevant period; or → was previously trading but temporarily unable to do so due to COVID-19.
Cash grants	Businesses in national lockdown/very high alert areas	→ Businesses legally required to close in England due to COVID-19.
	Businesses in high alert areas	→ Hospitality, accommodation and leisure businesses in Tier 2 areas
Self-assessment tax deferral	Individuals	→ Liability of between £32 and £30,000 → Must have filed 2019/20 tax return → No other outstanding tax returns or tax debts
VAT deferral	Businesses	→ Businesses that deferred their VAT quarterly payment due between 20 March and 30 June 2020
VAT reduced rate	Businesses in certain sectors	→ Certain supplies of hospitality, holiday accommodation and admission to attractions
Guarantee loan schemes	Businesses	→ Various loan guarantee schemes depending on the size of the business including bounce back loans, coronavirus business interruption loan scheme (CBILS), coronavirus large business interruption loan scheme (CLBILS) and Future Fund.

WHAT CAN BE CLAIMED	WHEN TO APPLY
→ 80% of wages capped at £2,500 per month → Scheme runs from 1 November 2020 to 31 March 2021. Government contributions may be reduced from 1 February	Deadline of 14th following the end of the calendar month e.g. 14 December 2020 for November claims.
Third grant for the period 1 November 2020 to 31 January 2021: 80% of average monthly trading profits capped at £7,500 in total. Fourth grant for the period 1 February to 30 April 2021: amount to be confirmed	Applications for third grant from 30 November, no date yet confirmed for the fourth grant.
Up to £3,000 per month depending on rateable value of the property	Can first apply after two weeks of closure
Up to £2,100 per month depending on rateable value of the property	To be administered by local authorities
31 January 2021 liability can be spread over the following 12 months. Interest will be charged on deferred amounts	Up until 1 April 2021 but recommended prior to 31 January
Further, interest free, deferral over 11 monthly instalments during the 2021/22 tax year	Not yet confirmed but will be an opt-in process
Reduced rate of VAT (5%) to apply until 31 March 2021	Automatic
Government backed guarantee. No interest for first 12 months on CBILS or bounce back loans. Government match private funding under Future Fund.	Application deadline extended from 30 November 2020 to 31 January 2021

The job retention bonus scheme was due to be paid to employers in February for previously furloughed employees who had been retained on the payroll until the end of January 2021. This has now been withdrawn, however, with the extension of the furlough scheme until the end of March. The Government has confirmed that an alternative incentive to retain jobs will be introduced at a later date.

For further detail on any of the above measures, please get in touch with your usual tax or Hazlewoods contact.

Changes ahead

There are some upcoming changes to be aware of, as well as an annoucement to defer one of these changes. Assuming that no further deferrals are announced for the other measures, it is, for now, full speed ahead.

MORE TIME TO SPEND

Currently the annual investment allowance (AIA), which gives 100% relief for capital expenditure in the year that it is incurred, is £1 million. However, this was set to reduce to £200,000 from 1 January 2021.

The Government has since announced that the £1 million temporary cap will be extended for a further 12 months to 31 December 2021.

The reason behind this extension is to encourage continued investment in UK manufacturing, whilst recognising that some businesses may need a bit more time to make significant investment decisions due to ongoing uncertainty with COVID-19.

Transitional rules will apply when the cap is reduced and businesses, with an accounting year end other than 31 December, will need to take care over the timing of any expenditure across the 2021/22 financial year, to ensure that maximum allowances can be claimed.

OFF PAYROLL WORKING – TAKE TWO

New rules on off-payroll working (sometimes known as IR35) for medium and large sized businesses in the private sector were due to come in from April 2020. However, a deferral was announced by the Government as one of the several measures to help businesses during the coronavirus pandemic.

The new rules will now apply from 6 April 2021, shifting the responsibility for determining whether the off-payroll rules apply from the contractor operating through a personal service company (PSC), to the end user. Similar rules are already in place in the public sector.

It is, therefore, important that where you engage contractors, all engagements are reviewed now to avoid costly tax implications and potential penalties if you were to be found to be in contravention of the rules. Failure to comply may result in the worker's tax and NICs liability becoming the responsibility of the end user business.

It is important to note that it is not just about what the contracts say, but the working practices in place too. Every engagement must be considered on its own merits and a determination made accordingly.

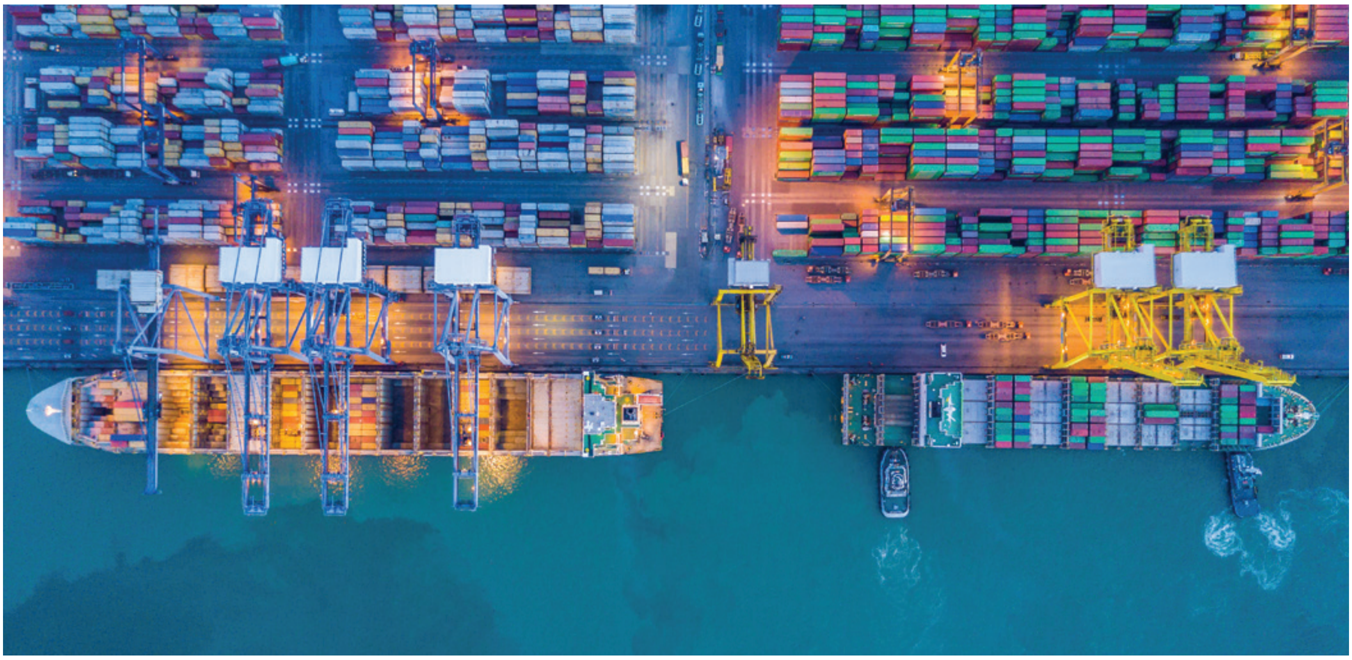
If you determine that a contractor is within the scope of IR35, the simplest solution is to engage the individual as an employee. Many businesses may be reluctant to take this step, as there would be additional costs to consider such as pensions auto-enrolment and holiday pay. You can continue to engage with their PSC, but if your company is the entity paying the PSC, then you would be responsible for ensuring PAYE and NIC are deducted from the payments made to them via RTI.

REVERSE CHARGE IN THE CONSTRUCTION INDUSTRY

Another measure delayed due to COVID-19, after already previously being delayed by 12 months, was the implementation of the VAT domestic reverse charge for businesses buying and selling construction services.

From 1 March 2021, certain supplies of construction services will fall under the measure and will require the customer to account to HMRC for the VAT in respect of the transaction, rather than the usual position of the supplier accounting for VAT. This will be achieved through the use of a reverse charge mechanism.

The reverse charge will apply through the supply chain where payments are required to be reported through the construction industry scheme (CIS). The reverse charge will apply until the point in the supply chain where the customer receiving the supply is no longer a business that makes a supply of a specified service and is so deemed an end user.



VAT ASPECTS OF TRADING WITH THE EU POST-BREXIT

During the past two months, to highlight the immediacy of the end of the Brexit transition period, HMRC has been issuing letters to VAT-registered businesses that currently trade with the EU, highlighting the actions they need to take to continue trading with the EU from 1 January 2021.

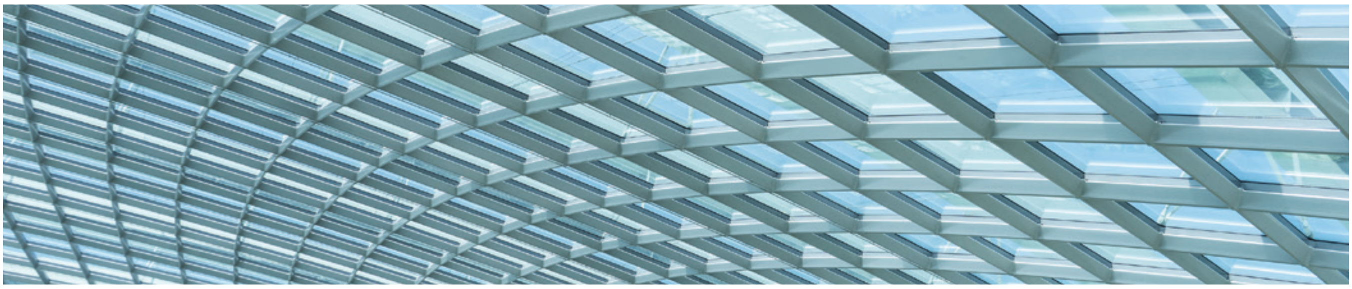
Although targeted at VAT-registered businesses, the only specific reference to VAT in the letters is the reminder that businesses will be able to use postponed VAT accounting to account for import VAT, on their VAT return, for goods imported from anywhere in the world. An online monthly statement will be provided by HMRC which will show the total import VAT postponed for the previous month. The VAT due on imports for the period should be included in Box 1 and (to the extent it is recoverable) Box 4 of the return, and Box 7 should include the total value of all imports of goods for the period.

It should be noted that, for goods imported by an overseas seller in consignments not exceeding £135 in value, the point at which VAT is collected will be moved from the point of importation to the point of sale. This will mean that UK supply VAT, rather than import VAT, will be due on these consignments, and if the customer is a UK VAT-registered business, a reverse charge process will apply.

As far as selling to the EU is concerned, business to business (B2B) sales of goods will now become exports – zero-rated in the UK but creating a liability for import VAT and duty on the part of the customer, if the latter is regarded as being the importer into the EU. However, arrangements can be put in place which will avoid payment of import VAT where goods are imported into certain member states and subsequently transported to the customer in another.

For sales to private individuals in the EU, distance selling rules no longer apply and UK businesses will need to zero-rate these sales as exports. The purchaser in the EU country will have to pay local VAT and also duty to their own government – either that, or the supplier will need to register in every EU country where sales are made (although the EU is proposing to introduce an Import One Stop Shop (IOSS) system from 1 July 2021, similar to the current VAT MOSS scheme). A possibility to consider here is that of creating an EU presence, obtaining a VAT registration in that member state alone and moving stock to that location to fulfil the distance sales – in this way, the current distance selling rules could still be used.

There will be limited changes to the VAT treatment of services for B2B transactions after the UK leaves the EU VAT regime. The reverse charge process will still apply, however the UK may deviate from some of the current 'use and enjoyment' rules. For UK sellers of digital services to EU consumers, the UK will no longer be a member of the EU Mini One-Stop-Shop (EU MOSS) single VAT return scheme, so affected UK businesses will therefore have to register in any other EU state, as a non-Union business, in order to continue to file their VAT declarations for EU e-service sales.



RESTRUCTURING: MAKE YOUR BUSINESS FIT FOR PURPOSE

This is a difficult time for many businesses due to COVID-19, whilst others are doing fantastically well despite the current challenging circumstances. The last few months have made business leaders think carefully about their business risks and whether their current structure is actually 'fit for purpose'. It may be the time, over the next few months, to put a new structure in place that will assist in growing your business, whilst mitigating the risks of a future downturn.

RISK OF PROPERTIES AND TRADE IN THE SAME COMPANY

We have helped a number of clients move their property assets out of their existing trading company. The risk is if there was a downturn in trade which resulted in, for example, a significant supplier not being paid, they may seek to claim their debts by pursing a claim against the assets of the company. This could result in a property potentially having to be sold (and at a 'fire sale' price) in order to pay this outstanding debt. It may be possible to mitigate this risk by moving the property into a new holding company that sits above the current trading company. Clearly, there are tax issues involved (and potential commercial issues if a bank has security over the property) in introducing a new holding company but, in our experience, it should be possible to carry out this exercise tax-free.

DIFFERENT BUSINESSES IN THE SAME COMPANY

Sometimes a company will have set up separate businesses/trades over time, which may be run by the same or a different management team in the company. One may be valuable whilst another may not, or it may be desirable to sell one of the businesses before the other. A company selling one of its businesses whilst retaining another can be very tax-inefficient and commercially more difficult. Furthermore, in a similar situation to the potential separation of property, there is also a risk that if one of the businesses fails then this could adversely impact on the valuable business.

It is possible to restructure the company by moving out one of the businesses, in a tax-efficient manner, into a new company formed for that purpose (and this could also be carried out at the same time as moving the property as discussed above). There can also be significant tax and commercial advantages of carrying out what is known as a demerger, so the individual businesses (whether they are trading or investment businesses) become held directly by the individual shareholders.

Care needs to be taken to carry out the restructuring in the correct way, to avoid falling into tax traps.

CREATE A NEW GROUP STRUCTURE

There are other instances where the shareholders may wish to consider bringing companies together within a group, as this can enable tax losses to be offset between the companies in the future and allow tax efficient transfers of assets around the group. If a company joining the group is valuable, there will be tax implications on the transfer of ownership of the shares that would need to be considered.

SOLVENT LIQUIDATION OF A COMPANY

If a company has sold its business, or ceased to trade, then it can often be worthwhile to carry out what is known as a 'members voluntary liquidation' to distribute the remaining assets (often significant cash balances) of the company. By distributing the funds in this way, they are treated as 'capital' so there are likely to be significant tax benefits compared with taking the funds out as dividends or salary. However, this option needs to be considered carefully since if the shareholder(s) are going to continue with a similar business in the future, the potential tax benefits of this route may be eradicated.

Hopefully, the above gives you a flavour of some of the options for restructuring your business to mitigate risk and create additional value. The potential tax implications of carrying out such restructuring need to be considered and the tax cost of doing things the wrong way can be significant. We will ensure that any restructuring fits with your commercial requirements whilst being carried out tax efficiently.

INHERITANCE TAX – THE ELEPHANT IN THE ROOM?

There are many reasons to put off thinking about inheritance tax, particularly as it is not the cheeriest of subjects. However, taking some simple steps now could help to reduce or entirely mitigate a future inheritance tax (IHT) bill on your estate.

IHT is levied at a rate of 40% on chargeable estates but there are various reliefs and allowances available including:

- **Nil rate band** - £325,000 can be passed on IHT free, with an additional £175,000 available where the main home is passed on to a direct descendent. Married couples each qualify for these allowances, giving total relief of up to £1 million. Transfers of assets between spouses are exempt from IHT.
- **Annual exemption** – each individual has an annual exemption of £3,000 per year which can be carried forward by one year if unused.
- **Regular gifts out of income** – gifts made as normal expenditure out of income are exempt from IHT.
- **Other gifts** – Small gifts of up to £250 per person per year can be made free of IHT, along with gifts of any size to UK registered charities. Wedding gifts of between £1,000 and £5,000 (depending on the relationship between the couple) are also exempt.
- **Charities** – the 40% IHT rate is reduced to 36% where the individual leaves at least 10% of their net estate to charity.
- **Reliefs** – business property relief (BPR) and agricultural property relief (APR) effectively remove (or reduce) the value of many business interests and farms from the charge to IHT.

In addition to making use of the various exemptions and reliefs, some simple planning may also help to reduce an IHT bill. At a minimum you should ensure that a Will has been made, is up to date and has been drafted tax efficiently. Further IHT planning could include the use of trusts, banking BPR and APR reliefs, maximising pension contributions and having your life assurance written under trust.

Putting aside a bit of time now to think about the future and addressing the elephant in the room, will help to ensure that your estate is divided up as per your wishes to avoid any family conflict, whilst also reducing your tax exposure.

MEET THE TAX PARTNERS

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