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Tax E-News

Welcome to our monthly newswire. We hope you enjoy reading this newsletter and find it useful.

September 2019

GOVERNMENT U-TURN ON PENSION TAX FOR DOCTORS AND OTHERS?

In earlier newsletters we reported that hospital doctors and GPs were lobbying the government to amend the pension tax rules as the current system of restricting tax relief on pension contributions means many doctors paying almost all of the extra salary back in tax if they take on additional responsibilities or work additional shifts.

This issue does not just affect doctors. From 2016/17 those taxpayers with 'adjusted income' over £150,000 and 'threshold income' over £110,000 receive a tapered annual allowance. This taper potentially reduces the normal annual pension allowance from £40,000 down to a minimum of £10,000 which may result in tax payable on excess contributions. As mentioned in earlier newsletters we can assist you in computing the potential liability.

The government have recently announced that it would consult on allowing senior NHS staff to select their level of pension accrual at the start of the year, to give them more pension capacity to take on additional work without breaching their annual allowance.

The Treasury has also agreed to reconsider the "taper", which restricts pension tax relief, not just for NHS workers but across the public sector. But what about the private sector! Look out for possible changes to pension tax relief in the Autumn Budget.

NO VAT PENALTY IF YOU MISSED THE FIRST QUARTERLY MTD DEADLINE

If you pay your VAT quarterly by direct debit the sign-up window has closed for the 7 August (30 June quarter) submission. Do not worry as HMRC have announced that you will not be penalised this time so you may file the old way and come back when the direct debit has been collected to sign up in time to file the next return.

Although HMRC will not penalise you, they will send a letter telling you that you missed the deadline and asking you to take action.

COMPANY OFFICERS JOINTLY AND SEVERALLY LIABLE FOR VAT PENALTY

The decision in a recent tax tribunal case reminds us that directors and other company officers may be personally liable for VAT penalties of their company. The recent case involved a penalty for late registration for VAT where the threshold had been exceeded.

Three conditions must be satisfied before the liability for a penalty payable by the company can be imposed on an individual:

1) A penalty must be payable by the company for a deliberate failure.

2) The individual on whom HMRC seek to impose liability must be an "officer" of the company

3) The deliberate failure must be attributable to that officer.

WHEN IS A VAN NOT A VAN?

HMRC are being urged to provide clarity and consistency on the tax treatment of commercial vehicles such as VW Kombi Vans marketed as goods vehicles. The need for clarity follows the ruling in an important tax tribunal case involving "vans" provided to employees of Coca Cola.

The court has upheld the HMRC view that certain vehicles are not goods vehicles but motor cars for benefit in kind purposes. Consequently, the income tax and national insurance payable by employee and employer is significantly higher than if the vehicles had been classified as goods vehicles.

CERTAIN VANS ARE EXEMPT FROM INCOME TAX

There is no assessable benefit in kind where the van is only used for business journeys or the private use of the vehicle is insignificant. Examples would include making a slight detour to pick up a newspaper on the way to work, or taking an old mattress or other rubbish to the tip once or twice a year.

INCOME TAX DEFINITION OF "GOODS VEHICLE"

The income tax legislation defines a "goods vehicle" as *"a vehicle of a construction primarily suited for the conveyance of goods or burden of any description…"*

Although the VW Kombi vans failed this test the Tribunal held that Vauxhall Vivaro vans provided by Coca Cola did fall within the definition of goods vehicles!

It is understood that this case is due to be heard at the Court of Appeal which will provide legal precedent over the tax treatment. Until then it gives employers a dilemma as to how to report such vehicles on employees' form P11d and also whether the position in earlier years should be rectified. The tribunal had to seek evidence from automotive industry experts so how are employers expected to interpret the rules!

What is also particularly confusing, and thus difficult for businesses to deal with, is that the benefit in kind rules are not the same as the rules for capital allowances and VAT.

CAPITAL ALLOWANCES DEFINITION OF "MOTOR CAR"

The definition of a "motor car" for plant and machinery allowances purposes is a mechanically propelled vehicle except a vehicle:

1. constructed in such a way that it is primarily suited for transporting goods of any sort, or
2. of a type which is not commonly used as a private vehicle and is not suitable for use as a private vehicle.

VAT DEFINITION OF "MOTOR CAR"

For VAT purposes the definition of a motor car has been amended several times over the years. The current definition states: "Motor car" means any motor vehicle of a kind normally used on public roads which has three or more wheels and either:

a) is constructed or adapted solely or mainly for the carriage of passengers; or

b) has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows;

There are a number of exceptions to this rule notably vehicles constructed to carry a payload of one tonne or more. A common example would be a "double cab" pick-up such as a Mitsubishi L200 or Toyota Hilux.

DIARY OF MAIN TAX EVENTS

SEPTEMBER / OCTOBER 2019

Date	What's Due
1 September	Corporation tax for year to 30/11/18 unless pay by quarterly instalments
19 September	PAYE & NIC deductions, and CIS return and tax, for month to 5/9/19 (due 22 September if you pay electronically)
1 October	Corporation tax for year to 31/12/18 unless pay by quarterly instalments
5 October	Deadline for notifying HMRC of chargeability for 2018/19 if not within Self-Assessment and receive income or gains on which tax is due
19 October	PAYE & NIC deductions, and CIS return and tax, for month to 5/10/19 (due 22 October if you pay electronically)

Please contact a member of our team if you would like to discuss any of the issues raised.
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