



Randall & Payne

Tax Bulletin

- Business Advisors
- Audit & Accountancy
- Tax & Wealth Planning

GOT THAT SINKING FEELING?

STAY AFLOAT WITH THE LATEST TAX ADVICE



We hope you find this bulletin helpful, we aim to highlight current practical tax planning opportunities, along with making you aware of new tax traps that can be avoided. The articles have been written by our tax team who will be very happy to discuss the issues raised further. If you would like to have a review of your tax affairs then please call Chris Mattos at our Stroud office to arrange a free initial meeting.

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Employment Tax



Late Paid PAYE – a Ticking Bomb

Are you struggling to make your PAYE payments on time? If you are, make sure you know your potential penalty liability.

Penalties for late paid PAYE and related liabilities, e.g. CIS, commenced in April 2010, but due to the way that penalties are calculated, none will have been levied until now. The new penalties for late payment of payroll taxes are determined by the number of defaults in a tax year. The first default does not attract a penalty if it is the only late payment in the year. However, if there are further defaults the penalties are as follows:

- For 2, 3 or 4 defaults in a tax year, the penalty is 1% of the total of the default, including the first.
- For 5, 6 or 7 defaults, the penalty is 2% of the total of the defaults.
- For 8, 9 or 10 defaults, the penalty is 3% of their total amount.
- For 11 or more defaults, the penalty is 4% of their total amount.

Higher penalties are due when the amounts relate to periods of 6 months or more: any amounts that are unpaid more than 6 months after the penalty date are liable to 5% and a further penalty of 5% applies after 12 months.

Some businesses will clearly be liable to pay a penalty for late payment in the 2010/11 tax year but it is not until after the last payment for the year is due (19 April 2011, or 22 April 2011 for those

paying by electronic means), that it is possible to determine the number of defaults in the year and therefore the rate of penalty.

HMRC have indicated that the penalties would be applied on a risk assessed basis for 2010/11 but it is not clear what this means. We think that HMRC will be attracted to businesses paying lump sum payments or making payments after the due date.

For Example:

George Ltd pay £10,000 per month for 11 months followed by £45,136 in April to top up the year's payments. The total amounts should have been spread over the whole tax year (i.e. £12,928 per month). As 11 months payments were effectively late, a penalty at 4% of £1,288 would be due.

HMRC would not be able to identify the precise amounts paid late without inspecting the company's records as the P35 return does not identify monthly amounts due. Our concern is that, if a business has a compliance check years down the line and it is found late payments have been made, these penalties will then come out of the woodwork. There seems to be nothing to stop HMRC officers from tracking back through each year identifying the amounts on which penalties are due and collecting significant penalties in one go.

Remember, just a day or 2 late with payments of PAYE/CIS deductions will trigger a penalty default.

For more information contact John Gaze at jhg@randall-payne.co.uk.

Working Tax Credits

Don't Miss Out!

Many people do not claim WTC to which they are entitled because they often do not realise they can.

Working tax credits (WTC) can be claimed by anyone who works and is on a low income. The claim can be made at any point during the year but the timing will affect the amount of WTC to which you are entitled.

WTC claims are based on the number of hours worked and the amount you get paid or expect to get paid, as an employee or self-employed individual, provided you:

- usually work 16 hours or more per week
- are paid for work done, and
- expect to work for at least 4 weeks

WTC eligibility is also age dependent and in addition to the above you must also satisfy one of the following:

- aged 16 or over and responsible for at least one child, or
- aged 16 or over and disabled, or
- aged 25 or over and usually working at least 30 hours, or
- aged 50 or over, unemployed and in receipt of benefits for 6 months

leading up to the claim and working 16 hours per week or more, or

- aged 60 or over and working for 16 hours per week or more.

The income threshold for WTC is £6,420. Any income above this will result in your entitlement being reduced by 41%. Individuals must be careful not to understate their income as any overpayment will need to be repaid.

Case study:

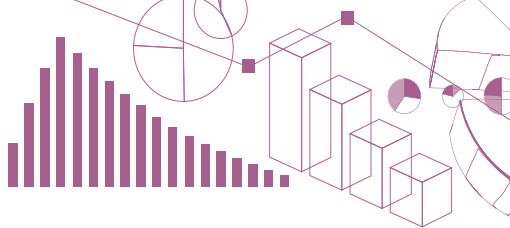
We were recently approached by a couple who had been in partnership for a number of years and had made a loss in the current year; their only other income was their state pensions. After a phone call to the HMRC tax credits line, they are now receiving an extra £90 per week in WTC.

This is something all business owners should consider: you could be missing out on money to which you are entitled.

We can help you to avoid missing out

When claiming tax credits you can currently backdate your claim by 3 months. From 6 April 2012 this will be reduced to one month, but we can assist you in making a protective nil claim now to allow you to claim in full everything you were due from HMRC.

For more information contact Vicky Beavis at vcb@randall-payne.co.uk.



Daily Subsistence for the Self Employed: what can be claimed?



Do you know that a deduction is available to the self-employed for subsistence costs where business travel is concluded within a day?

For many people who have to travel regularly, the cost of food and drink can be huge over the course of a year.

HMRC have had no issue with employees making claims, so have simply put the self-employed in a similar position. Although this has been the position for several years, it appears a lot of practitioners are unaware of the subtle change in emphasis for the self-employed and in some instances overpayment relief claims may be appropriate.

For Example:

Fred, a self-employed designer, leaves home first thing in the morning, catching a train to a distant town for a meeting with a client. He buys breakfast at the station and

following his meeting, grabs coffee and a sandwich en route to his next appointment, which runs on into the evening. Facing a two hour journey home, Fred has dinner on the train.

According to HMRC, the case of *Caillebotte –v- Quinn* prevents a deduction where the self-employed prepare their own food instead of buying it “on the road”. However, HMRC acknowledge that some self-employed travel will be undertaking business journeys where a deduction would be allowed: “Extra costs may be incurred wholly for business purposes where a business is, by its nature, itinerant (e.g. in the case of commercial travellers) or where occasional business journeys outside the normal pattern are made. Modest expenses incurred in these circumstances may be deducted from business profits”.

In Fred’s case this would allow a deduction even though he has not stayed away from home overnight.

The basic rule is important, though; the subsistence will only be deductible as part of qualifying travel - this does not include home to work travel. Furthermore, the claim must be reasonable. But what is reasonable? Are you missing out on a claim?

For more information contact John Gaze at jhg@randall-payne.co.uk.



Directors

Use of Home as Office – Getting the Paperwork Right

A director / company owner (as an employee) working from home is not able to claim the same fixed costs as a self-employed person. “Fixed costs” was a term introduced by HMRC to cover items such as mortgage interest, council tax and insurance. It is possible for self-employed people to claim a percentage of these in addition to additional costs such as consumables (e.g. light and heat).

HMRC allows employees working from home to claim a flat rate of £3 a week to cover expenses. Unsurprisingly, given the level of this allowance, many company directors do not charge this amount. Directors may, however, use their homes to provide tax efficient office space by renting themselves a room. This would then allow them to offset the costs relating to the room or office against any rental income by following HMRC classification of fixed costs.

The advantage of paying rent from a company to yourself is that whilst it is taxable on you (less the various expenses) it is not taxable to National Insurance and therefore any payment to yourselves in this way will save both the employer’s National Insurance of 13.8% together with the additional National Insurance charge of 2%.



An element of care is required when benefitting from this planning as it is important that correct documentation is put in place so as an individual does not affect their principal private residence exemption from Capital Gains Tax. To qualify for the exemption, no proportion of the house can be used exclusively for business purposes.

We advise that you should establish a formal rental agreement between yourself and the company. This should grant the company non-exclusive use of a room, or rooms, in your house. The non-exclusivity element, enabling continued use of those rooms for private purposes, ensures that there are no Capital Gains issues when the property is sold.

The arrangement should be set up on a commercial basis, with the level of rent paid comparable to local serviced office rates.

For more information contact Chris Mattos at cjm@randall-payne.co.uk.

2012 Capital Allowances



THE ANNUAL INVESTMENT TRAP

Are you in business and looking to purchase assets before April 2012? If so, changes to capital allowances could affect the tax relief to which you could be entitled. In the June 2010 emergency budget the Chancellor gave advanced notice of the proposed changes to the capital allowances rates.

The rate of writing down allowances for accounting periods ending on or after 01 April 2012 for Corporation Tax and 06 April 2012 for income tax will be reduced:-

- From 20% to 18% for the main plant and machinery pool.
- From 10% to 8% for the special rate pool for integral features, cars bought after 31 March 2009 emitting more than 160g/km CO2 and long life assets.

A hybrid rate must be calculated and used where an accounting period spans 1 April 2012, for companies, and 6 April 2012, for sole traders and partnerships.

The limit for the Annual Investment Allowance (AIA) reduces from £100,000 to £25,000 from April 2012 – the effective 100% rate.

The way in which the limit operates for a period spanning this date is logical and involves splitting the period into 2 across the date of change. The limit for the entire accounting period is then found by time apportioning the old and new limits, as follows:-

Example 1: Year ended 30 June 2012 – self employed business

Period 1 July 2011 to 5 April 2012

280 days / 366 days x £100,000 = £76,503

Period 6 April 2012 to 30 June 2012

86 days / 366 days x £25,000 = £5,874

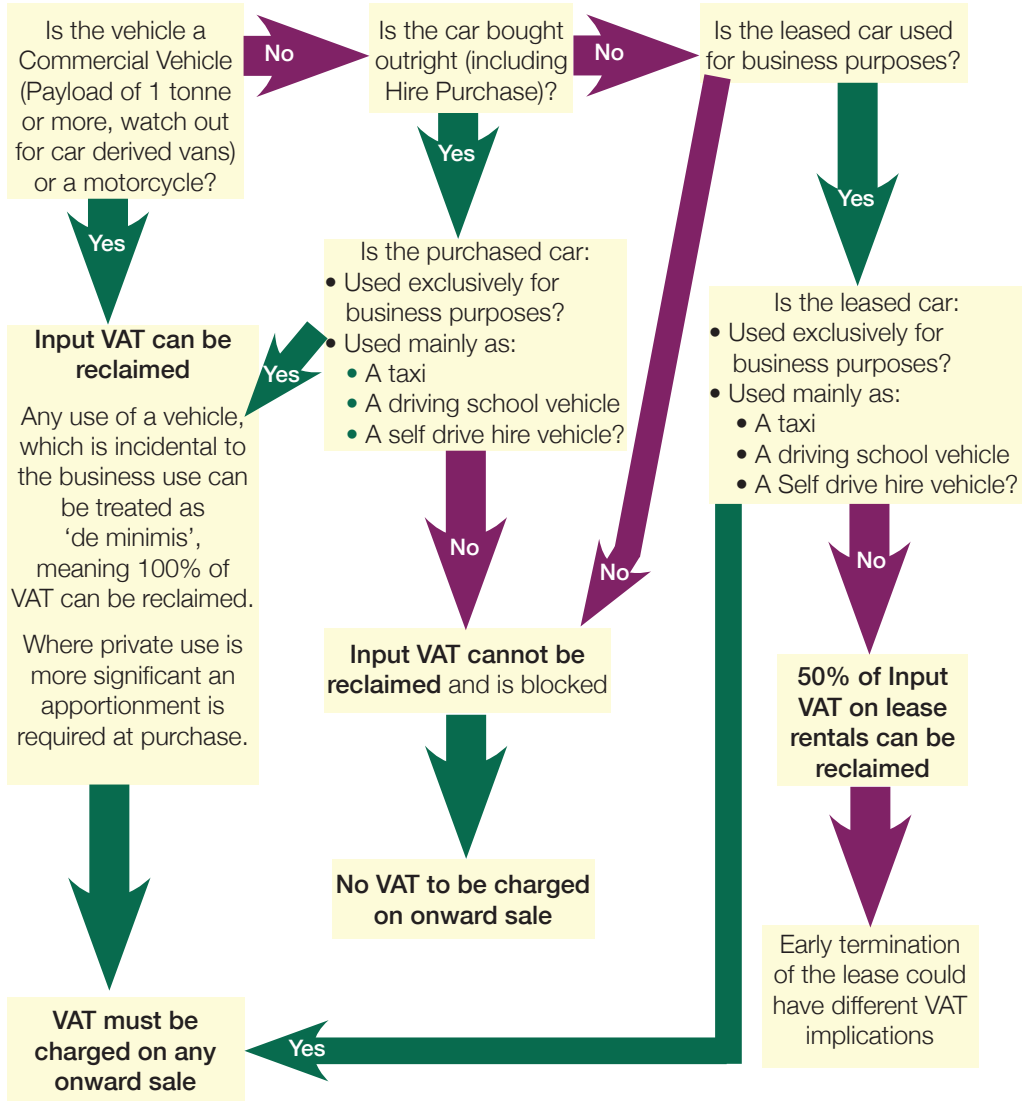
Total AIA for the period **£82,377.**

However, the legislation restricts the maximum amount of AIA applying to expenditure in the period after the change in April 2012 to the time apportioned limit for that part of the period, i.e. to just £5,874 in the above example.

Where a self employed business needs to incur substantial expenditure in the period up to 5 April 2012, it may be beneficial to change the accounting year end to the period ending 31 March 2011.

For more information contact Eirlys Greenough at erg@randall-payne.co.uk

VAT on Cars



Draft legislation publication date announced



The Treasury has announced it will publish responses to the various consultations on tax changes announced at the 2011 Budget by 6 December.

The consultations include proposals on a statutory residency test, the reform of non-dom taxation, the patent box and research & development tax credits.

Immigration and Emigration – the new residency test

The current tax rules relating to residence have many grey areas, evident in the numerous cases in recent years. A simpler system to determine residence is proposed where, through a series of tests it can be determined if taxpayers are resident in the UK in a tax year.

These rules form only one half of the equation as a taxpayer needs to review the rules of the country they are coming from or going to. We have spent recent months advising on the proposed rules

and have been assisting some of our clients to understand how the tax rules interact with jurisdictions such as France, Spain, Switzerland, Malta, Gibraltar and the Channel Islands.

We have experience, contacts and associates that can help with many issues relating to international tax planning, please contact Chris Mattos for more information:

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for our Autumn Statement
#AutStat coverage

Chancellor George Osborne has announced that he will deliver his autumn statement on **Tuesday 29 November 2011**. The Office for Budget Responsibility will publish its next report on the UK's economic and fiscal outlook, including its latest estimates for UK economic growth.

This newsletter has been prepared for general interest and it is important to obtain professional advice on specific issues. While all possible care is taken in the preparation of this newsletter, no responsibility for loss occasioned by any person acting or refraining from acting as a result of the material contained herein can be accepted by Randall & Payne LLP. We believe the information contained in this newsletter to be correct at the time of going to press, however, it is important to remember that tax legislation changes regularly.



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