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We are delighted to present the December 2016 edition of our quarterly tax newsletter. Our newsletter is designed to keep you up to date with tax trends and issues that may impact your business and personal financial affairs.

In this issue we look at:

Revenue Update... How to Protect Your Business from becoming involved in VAT fraud

Revenue has published guidance to raise awareness of the risks for businesses of participating in transactions involving VAT fraud.

Taxpayers who are found to be knowingly linked to VAT fraud can be denied input VAT credits, the right to zero-rate intra-Community supplies and can even be jointly and severally liable for unpaid VAT.

Indicators that a particular transaction may be fraudulent are where the following seem questionable:

- The legitimacy of suppliers
- The commercial viability of the transaction (e.g. payment arrangements and conditions)
- Viability of the goods / services as described by the supplier.

Businesses can maintain diligence on prospective suppliers and reduce their risk of unwittingly being linked to VAT fraud by taking certain actions. For example:

- If the other party is based in another EU Member State, it is good practice to verify their VAT registration details on the EU website (http://ec.europa.eu/taxation_customs/vies/);
- Request credit checks and other background checks from an independent third party;
- Request the supplier's bank details and check whether the supplier and bank share the same country of residence in the case of an import;
- Obtain written trade references and verify them to ensure they are genuine.

Tax Tips... focus on capital gains tax

Tax Tip

If you make a gain on the sale of an asset, the first €1,270 of the gain is exempt from CGT. However, this exemption is not transferable between spouses or civil partners. If you do not get to use your exemption in a tax year, you cannot carry it forward to a future tax year.

Tax Trap

If you sell your main home having lived there for all or for part of the period that you owned it, you may be entitled to Principal Private Residence (PPR) relief to reduce or eliminate the capital gains tax arising on the sale. However, if you are self-employed and operated your business from home during the period of ownership, your entitlement to PPR relief may be adversely affected.

Finance Bill 2016

Finance Bill 2016 sets out the proposed legislative changes required to implement the Budget day announcements of 11 October last. Below we look at some of the detail around the various property and VAT measures.

Property Measures

"Help to Buy Scheme"

The "Help to Buy" scheme is designed to assist first time buyers purchase or self build their own home and will be back-dated to cover new houses acquired or built between 19 July 2016 and 31 December 2019. Under the scheme a refund will be paid to first time buyers of income tax (including DIRT) paid over the previous 4 years, of up to 5% of the value of a newly constructed home, to a value of €400,000. Marginal relief is available where the value of the new home is between €400,000 and €600,000.

As the aim of the incentive is to help those struggling to put together the required deposit for a home, there is a requirement that the first time buyer take out a mortgage of at least 70% of the house price (or in the case of a self-build, 70% of the valuation approved by the mortgage provider). Cash-buyers are not eligible for the incentive.

The Home Renovation Incentive ("HRI") Scheme

The HRI scheme was due to expire on 31 December 2016. However, an extension of the scheme until the end of 2018 was announced in the Budget.

HRI provides an income tax credit for homeowners (including landlords) on repairs, renovations or improvements carried out on their main home or rental property by HRI qualifying contractors. The maximum tax credit available per property is €4,050.

The Living City Initiative

The Living City Initiative is a scheme of property tax incentives which apply in certain "special regeneration areas" in the centres of Dublin, Cork, Limerick, Galway, Waterford and Kilkenny. The scheme provides for tax relief for qualifying spend incurred on both residential and certain commercial refurbishment and conversion work.

Enhancements to the initiative were announced in the Budget such that the scheme can now be availed of by landlords in respect of the renovation of rental accommodation in the special regeneration areas. Furthermore, the requirement for a building to originally have been constructed for use as a dwelling along with the cap on maximum floor size of properties has been removed.

Changes have also been introduced to the minimum amount of expenditure needed to qualify. In order to qualify for the relief, expenditure must now exceed €5,000. Previously, qualifying expenditure was required to equal at least 10% of the market value of the relevant property.

Tax Relief for Landlords on Mortgage Interest

Currently, tax relief for landlords is restricted to 75% of the allowable mortgage interest for residential properties. The only exception to this rule being where the property is let to tenants in receipt of certain social housing supports and in such cases tax relief for 100% of the allowable mortgage interest is allowable.

The Bill gives effect to the restoration of 100% mortgage interest relief on residential rental properties over 5 years. This will be in line with the 100% relief currently available to commercial property landlords. This begins with an increase to 80% for 2017.

"Rent a room scheme"

The tax free rental allowance under the "rent a room scheme" is being increased to €14,000 per annum from 2017. This measure is aimed at encouraging homeowners to rent out vacant rooms in their homes in the hope that it will lead to an overall increase in the availability of rental accommodation.

VAT measures

Changes to the method of apportionment of Input VAT Deductibility

Many businesses carry on a mix of activities, some of which are VAT exempt and other activities that are subject to VAT. Such businesses are referred to as partially exempt as they can only reclaim the VAT on the part of their purchases which relates to the VAT-bearing sales. Determining the correct amount of the expense that is available for deduction as a VAT input credit requires apportionment of the cost.

The Finance Bill 2016 provides that for the purpose of calculating VAT deductions on such inputs, the taxpayer's turnover should be used as the primary method of apportionment. However, where this method does not accurately reflect the use of the inputs, then the business may use another apportionment method.

This amendment effectively adds an additional requirement in the annual exercise that must be carried out by partially exempt businesses to determine the most appropriate VAT recovery method. In view of these changes, all partially VAT-exempt entities should consider the appropriateness of the VAT recovery rate methods.

Farmers' flat-rate addition

The Bill confirms the measure that was announced in the Budget that the flat-rate addition (which compensates unregistered farmers for irrecoverable VAT on their purchases), will increase from 5.2% to 5.4% with effect from 1 January 2017.

The Bill also provides that the Minister can restrict the application of the flat-rate addition from specified agricultural goods or services. This will apply where, following a review by the Revenue, the Minister is satisfied that the flat-rate addition is over-compensating farmers in a particular sector for irrecoverable VAT incurred.

Farmers and agricultural producers should be aware of the potential for the flat-rate addition to be removed in respect of specified transactions. This should be borne in mind where long-term contracts are being negotiated.

Important steps in the RCT process

RCT applies to payments made by a principal contractor to a sub-contractor under contracts for numerous types of construction, meat processing or forestry operations. For businesses that fall within the scope of principal there are onerous administrative obligations.
Steps to be undertaken by a principal when operating RCT on payments to sub-contractors:

1. Register for RCT on Revenue's Online Service (ROS)

2. Notify Revenue of each contract (Contract Notification)

The principal must obtain documentary evidence from the sub-contractor including

i. the subcontractor's name and tax reference number,
ii. the estimated contract value,
iii. declaration on employment status (i.e. that the contractor is self-employed and not an employee),
iv. additional details are required if the sub-contractor does not have an Irish tax reference number (contact number and email address etc).

Revenue will allocate a contract identification number and will issue an indicative deduction rate that will apply to payments being made to the sub-contractor.

3. Create a Site Identifier Number (SIN)

- this is a unique number that is allocated to each site and should be used by the principal for all contracts notified on that site.

4. Notify Revenue of the payment to be made to a sub-contractor (Payment Notification)

- before making any payment to a sub-contractor, the principal must notify Revenue of their intention to make such payment
- a Deduction Authorisation will then be issued to the principal's ROS inbox, showing the applicable RCT deduction rate and the amount of RCT to be deducted.

5. Provide a copy of the Payment Notification

Acknowledgement to the sub-contractor

- This is to enable the sub-contractor recover the RCT deducted.

6. Await receipt of the Deduction Summary at the end of each month

- The principal receives the Deduction Summary via ROS at the end of each month. This summarises all payments made to sub-contractors during the month.
- The principal should carefully review the Deduction Summary before filing it with Revenue by the 23rd day of the following month (together with any RCT deducted).

Interaction between RCT and VAT

Construction services that are subject to RCT are subject to VAT on a reverse-charge basis i.e. the invoice raised by the sub-contractor to the principal should not include VAT on the services provided. The invoice should include the VAT registration number of the principal and the narrative "VAT on this supply to be accounted for by the Principal Contractor".

Top Tips for minimising gift and inheritance tax costs

Planning ahead is necessary to plan for, and hopefully minimise, future gift and inheritance tax liabilities. Here are some useful tips:

There are generous reliefs available for transfers of a business or farm by way of gift or inheritance. Provided certain conditions are met, the market value of the assets being transferred will be reduced by 90% for the purposes of calculating the gift or inheritance tax liability.

Gifts of assets from parents to children will often give rise to a capital gains tax (CGT) liability for the parent and a simultaneous gift tax liability for the child. Usually, the CGT paid by the parent can be credited against the child's gift tax liability. The property transferred must be held by the child for a period of two years or the relief is clawed back.

Including children in the purchase of property at an early stage ensures that they share in the growth of the asset thereby reducing their future benefit. If you are considering a long-term investment, it might be a good idea to bring your child in as a co-investor so that the increase in value of the investment will partially accrue to the child directly.

You can defer tax liabilities for as long as possible by leaving all of your assets to your spouse if you are married and your spouse in turn then leaves all assets to your family. This takes advantage of the tax exemption for transfers between spouses.

By taking out an approved insurance policy, you can assist your beneficiaries in paying their CAT liabilities. The proceeds of the policy are exempt from tax once certain conditions are met. The level of cover included in these policies should be reviewed from time to time.

Plan the transfer of your business to your family once you reach 55 years of age and avail of retirement relief from CGT and also the very significant reduction in value for gift tax purposes of the business assets. This can be done without you losing control of the business.

Spreading out the benefits of your assets to your children, sons-in-law, daughters-in-law and grandchildren where applicable ensures a greater number of tax free thresholds when calculating the tax liability due.

Every year children can receive a tax free gift of €3,000 from each parent. This is a useful way to gradually reduce your assets that might otherwise be liable for tax. Indeed individuals can receive €3,000 per calendar year from any individual free of tax.

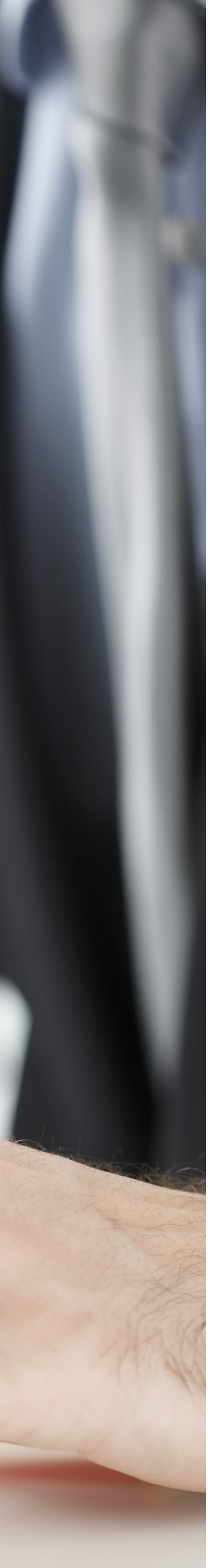
There is tax relief for the transfer of residential property in certain circumstances. However, amendments proposed in Finance Bill 2016 will significantly restrict the availability of the relief. The relief will only be available for gifts of residences in very limited circumstances. It will be easier to meet the conditions of the relief in respect of inheritances of residential property".

Factors to consider when deciding whether to incorporate a trade

With the upturn in the Irish economy many small businesses are looking to scale up operations. This is an very positive trend however, it does mean greater tax obligations for businesses. As a business grows, tax takes on increasing importance, both to ensure that all tax compliance obligations are met as well as ensuring that the business is using all available tax reliefs.

One of the most important decisions for a business to make is when to incorporate (i.e. transfer the sole trade to a company).

From a purely tax point of view, if the profits of a business are larger than that needed to live off, the most tax efficient option is generally to incorporate the business. There are numerous advantages to incorporating a business, including



Lower tax rates

Ireland's 12.5% tax rate only applies to the trading profits of companies. By contrast, individuals pay tax on up to 55% of their trading profits. If you start your business through a company, it may also be eligible for a 3 year exemption from corporation tax which effectively reduces an annual tax charge of up to €40,000 to nil. This relief is linked to the amount of employer's PRSI paid by a company, subject to a maximum of €5,000 per employee, and an overall limit of €40,000. There are certain limitations on the types of businesses that qualify, for example, service companies do not qualify.

Remuneration and pensions

with an incorporated company there is more flexibility regarding the method of remuneration. There are various means of extracting cash from a company (salary, directors' fees and dividends). Further a company has the ability to pay proper business expenses to employees and directors at civil service rates on a tax free basis. The company will also get a tax deduction for any pension contributions it makes to your pension scheme.

Enterprise and Investment Incentive Scheme (EIIS)

relief may be available on funds invested into the company, if the company meets the conditions to qualify for the relief.

Limited liability

in practice this is not much of an advantage as banks and key suppliers may require personal guarantees from the shareholders and / or directors in respect of company debts. Nevertheless body corporate can increase the credibility of a business with third parties. These advantages should always be weighed against the disadvantages of trading through a company. From a tax point of view, the following are worth remembering:

Double charge to tax

the company pays tax on its profits. In addition, income tax is payable by you (as a company shareholder) on any income or dividend you take from the company.

Close company surcharge

the vast majority of Irish small companies are subject to the "close company rules" which stipulate that rental and investment income of a close company is liable to a 20% surcharge. Undistributed income of a service company is liable to a 15% surcharge (on half of the undistributed trading / professional income).

Stricter expense rules

a company director has fewer expense deductions than a self-employed person.

Additional administration obligations

there will be the annual obligation to file company accounts with the Companies Registration Office which means a loss of confidentiality as they can be inspected by anyone.

Contact us

If any of the topics covered affect your business or your personal finances, please contact us we will be delighted to discuss issues that are relevant to you.

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