Bewers Turner & Co
Chartered Accountants

Newsletter

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HMRC's Trust Registration Service

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Inside this issue

HMRC's Trust Registration Service

With a registration deadline looming, and urgent action needed, check now: could the Trust Registration Service (TRS) impact you?

Part of a European initiative to tackle money laundering and the financing of terrorism, the rules around the TRS now have consequences for many more trusts and trustees than originally anticipated. This means trustees able to disregard the requirements previously should reassess their position.

Initially, the requirement was for all express trusts with a UK tax liability to register with the TRS. An 'express trust', according to HMRC, is a trust deliberately created by a settlor, usually in the form of a document such as a written deed or declaration of trust, rather than, for example, one created by an act of law.

The requirement now, however, is for all UK express trusts to register, whether they have a tax liability or not. The only opt-out is if they fall within specific exclusions. Exclusions cover express trusts considered lower risk by HMRC, such as charitable trusts.

> Even trusts in the excluded categories, though, must register if they have a liability to UK tax.

There are also provisions for non-UK trusts: if this is of relevance to you, we can advise further.

In an administrative quirk, trusts in existence on 6 October 2020, but which have since been wound up, are also within scope. Such trusts must register and then be removed from the register.

We recommend taking stock now. Is it possible that you have been involved in setting up a trust, or acting as a trustee in the past?

> What constitutes a trust is not always intuitive.

Some arrangements may not immediately spring to mind as being in the trust category, such as opening a cash deposit account for a minor. In fact, this could constitute a bare trust: although the good news is that this is one of the TRS exclusions. Investments such as stocks and shares held on trust for the benefit of a minor, on the other hand, are not excluded. For the avoidance of doubt, the rules do not apply to Child Trust Funds, nor Junior ISAs.

The deadline to register non-taxable trusts created on or before 6 October 2020 is 1 September 2022. Non-taxable trusts created after 6 October 2020 must be registered within 90 days of their creation or becoming liable for tax, or by 1 September 2022 (whichever is later).

Please remember we are on hand to assist with the registration process and advise on the information needed to do so.

TALKING ABOUT CAPITAL ALLOWANCES

What comes next for capital allowances? The enhanced Annual Investment Allowance (AIA) and super-deduction come to an end on 31 March 2023 and the government is discussing the next step, prior to the Autumn Budget.

With the current regime less favourable than some other countries', the government has put various options on the table. They include increasing the permanent level of the AIA; increasing the rates of writing down allowances; introducing general first-year allowances for qualifying expenditure on plant and machinery; introducing an additional first-year allowance or introducing permanent full expensing.

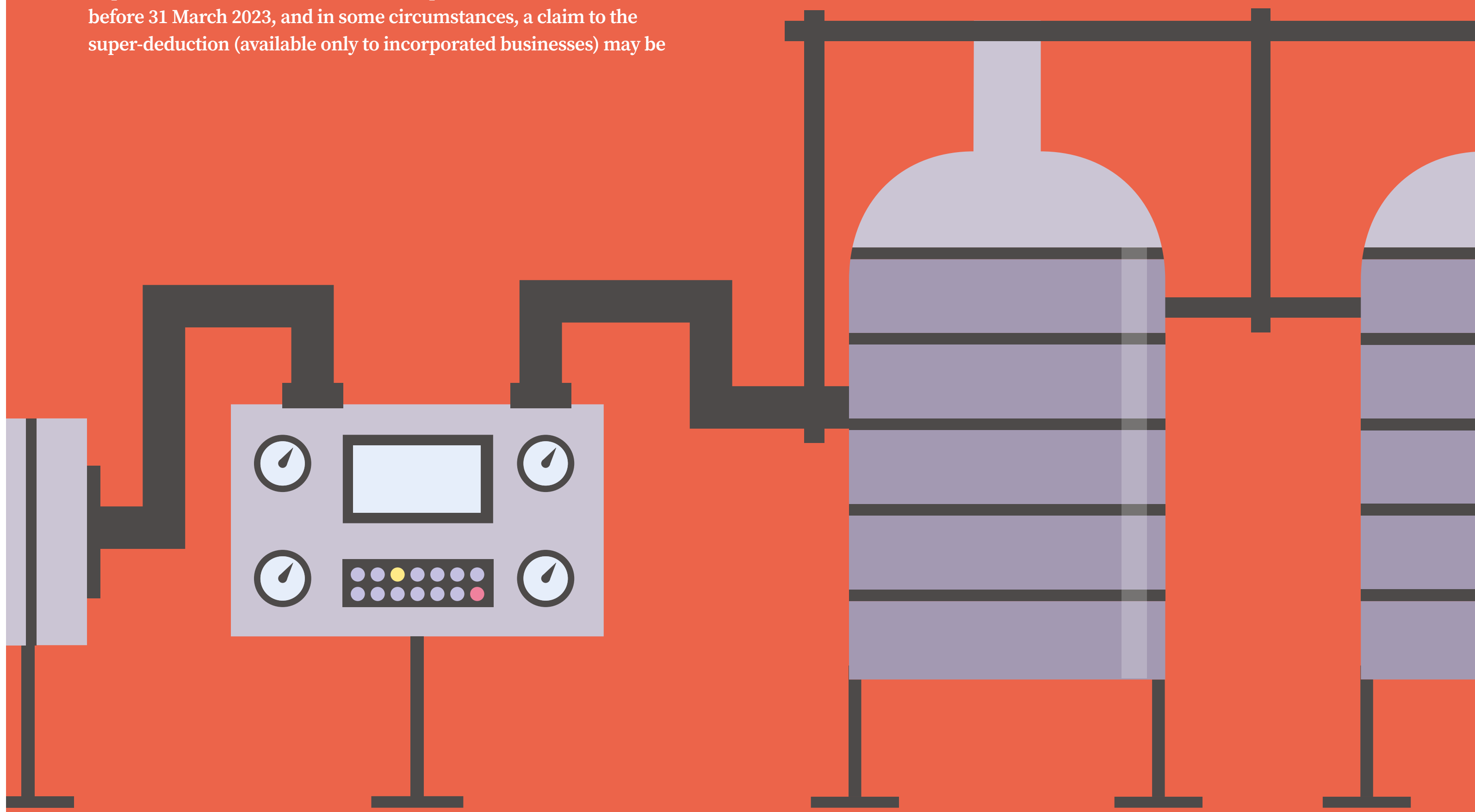
The proposal as regards the AIA is to increase it permanently to £500,000. As you know, the AIA allows most businesses to deduct the full amount of qualifying expenditure, up to a set level, to arrive at taxable profits. It can be claimed on most plant and machinery expenditure, but not expenditure on cars.

> It's worth noting that the AIA is currently due to drop back to £200,000 from 1 April 2023 and if your business has an accounting period that straddles this date, you may need to consider the impact of the transitional rules that will apply.

In such cases, the timing of capital expenditure will be particularly important. To effect maximum relief, expenditure will be best incurred before 31 March 2023, and in some circumstances, a claim to the super-deduction (available only to incorporated businesses) may be preferable. If you are looking at significant capital expenditure, do please talk to us about the most tax efficient way to achieve it.

Planning is always important to get the optimal result when investing in your business.

We should be delighted to guide you through any forthcoming change to the rules on capital allowances, or help you maximise the opportunities still available under the current temporary provisions.



FAO landlords: Homes for Ukraine scheme

Payments received under the Homes for Ukraine sponsorship scheme are free of tax. Legislation setting this out will be included in the next Finance Bill, with retrospective effect from the date of payment.

In practice

This means that Homes for Ukraine sponsorship payments made by local authorities are exempt from income tax and corporation tax. Neither are they chargeable to National Insurance contributions.

It is important to remember, however, that as sponsorship payments are not taxable, the consequence is that tax relief is disallowed for expenses that might otherwise have been set off against taxable income. This covers, for example, expenses incurred by landlords in relation to the property.

Furnished holiday lettings

The rules for properties used as furnished holiday lets (FHLs) are currently unchanged. FHLs benefit from bespoke tax rules, one key qualifying condition being the requirement that property is let at a commercial rate for 105 days each year.

> A written statement from the Treasury in March indicated that there was, at that stage, no intention to relax this requirement.

We continue to monitor the position here and will advise of any developments.

Companies

For those who hold property through a company, the position with regard to relief from the Annual Tax on Enveloped Dwellings (known as ATED), and the higher 15% rate of Stamp Duty Land Tax (SDLT) is also important. Companies which already qualified for such relief for dwellings used in a property development, or property trading business, or because let on a commercial basis, will still be able to claim the reliefs while the dwellings are used in the Homes for Ukraine scheme.

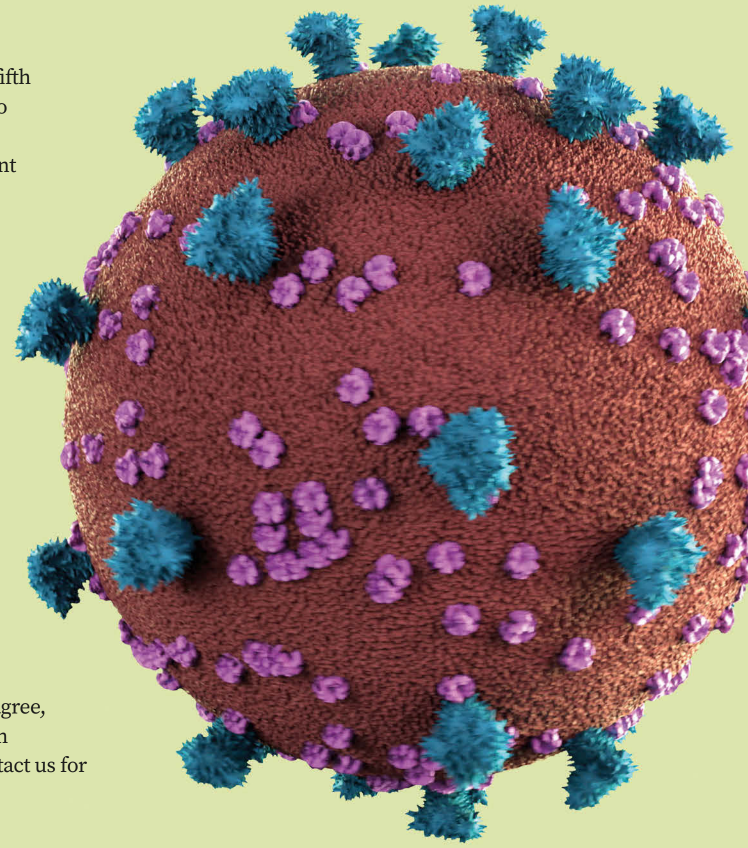
Further, a company purchasing a property for a purpose that would otherwise be relievable from the 15% rate of SDLT, will still be able to benefit from the relief, even if the property is temporarily used for the Homes for Ukraine scheme. If a dwelling does not currently qualify for relief from ATED before inclusion in the scheme, ATED relief will, nonetheless, be available from the point of occupation where the whole dwelling is used for the scheme.

The provisions on ATED will have effect from 1 April 2022 and from 31 March 2022 for SDLT.

Working with you
We are always happy to help you navigate the rules on property tax. Do please contact us to explore tax efficient ways to manage your property portfolio.

COVID-19 SUPPORT AND A LETTER FROM HMRC?

HMRC is still reviewing claims made for financial support during the pandemic.



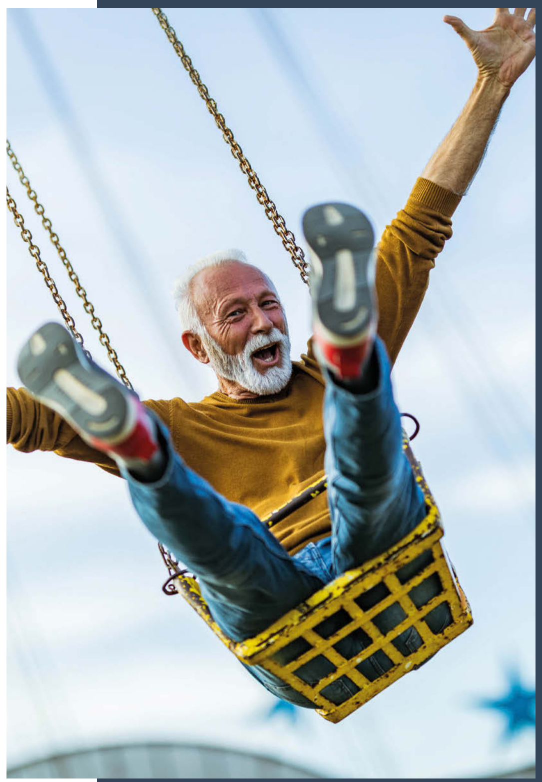
Most recently, HMRC compliance activity has focused on claims to the fourth and fifth Self-employment Income Support Scheme (SEISS) grants, and it has been writing to those who received either or both of these grants, if their tax return for any of the years 2016/17 to 2019/20 has been amended after 3 March 2021, and that amendment impacts their entitlement to the grants. Amendments in this context include corrections by HMRC, taxpayer amendments and HMRC amendments following an enquiry, but not contract settlements, revenue assessments or charges raised.

Where such a tax return amendment means the level of grant would fall by more than £100, or would effectively render someone ineligible for the grant, there is a requirement to repay the relevant amount to HMRC. There is an added complication in that there were two payment bands for the fifth SEISS grant: a higher 80% rate and a lower 30% rate. An amendment to the tax return therefore, could potentially move a claimant from one band to the other, resulting in SEISS overpayment.

HMRC's current letters include a formal tax assessment, and the correct procedures need to be followed in order to avoid penalties.

> If you receive such a letter and agree HMRC's figures, payment is needed within 30 days of the due date.

In cases of financial difficulty, time to pay may be arranged with HMRC. If you disagree, a formal appeal should be made in writing within 30 days of the date of the letter. In short, if you receive such a letter, it's important to act, and promptly: please do contact us for further advice.



Up to speed with pensions

'All I know is I've put in an amount of money... but how they come to that figure, no idea.'

HMRC research into public understanding of pensions tax relief found considerable lack of awareness as to how tax and pensions fit together. Broadly, an individual is entitled to make pension contributions and receive tax relief on the higher of £3,600 or 100% of earnings in any given tax year – though tax relief is generally restricted for contributions above the annual allowance (£40,000). Higher earners may be impacted by the annual allowance taper, which can in some circumstances reduce the annual allowance to £4,000.

The maths underlying tax relief means that for every 60p saved by a higher rate taxpayer, the government adds 40p, a 66.6% contribution. For every 80p contributed by a basic rate taxpayer, the government adds 20p, a 25% contribution.

What HMRC's research also pinpointed was 'a clear appetite' for more information to help taxpayers understand what they need to save to afford the retirement they envisage.

> Pension provision needn't be a closed book.

As your accountants, we are ideally placed to advise on tax efficient planning for retirement.

Do contact us for more information.

What's going on with your National Insurance costs?

National Insurance contributions (NICs) rose in April 2022, but the latest swing of the pendulum brings better news: an increase in the amount that can be earned before NICs are due.

Good news, bad news?

The new rules take effect from 6 July 2022. They mean that while employees have been able to earn £190 per week before paying Class 1 NICs between 6 April and 5 July 2022, from 6 July 2022, they will be able to earn up to £242 per week.

Because the figures have been adjusted part-way through the 2022/23 tax year, the full annual benefit won't actually come through until the next tax year, 2023/24. It's only then that payment of NICs will start when earnings reach £12,570 per year – the figure that you will have seen in the headlines when the measure was first announced.

For some people, the July 2022 change will counteract the April increase. It won't, however, do so for everyone. Employees earning more than about £35,000 are still likely to pay more in NICs than in 2021/22, even after the July change.

The next development to come is the introduction of the Health and Social Care Levy (HSCL) as a standalone charge in 2023. This will not change the overall equation for anyone paying NICs at present, but it will affect a wider range of employees. This is because employees over state pension age do not pay NICs, but they will need to pay the HSCL.

Top tax tip

For employers caught between unwelcome inflationary pressures and the need to retain staff, is there anything that can be done to keep NICs costs in check?

The short answer is yes.

> Salary sacrifice arrangements still make a useful tool to chip away at a rising NICs bill.

In outline, a salary sacrifice arrangement is an agreement to vary an employee's terms and conditions of employment, reducing entitlement to cash pay in return for a non-cash benefit. The tax and NI savings do not apply in relation to all benefits, but pension contributions and employer-provided pensions advice; ultra low emission vehicles; cycles and cycling safety equipment, including the cycle to work scheme; and employer-provided childcare are all benefits where substantial savings can be made. Because pay is calculated after the 'sacrifice', the arrangement decreases the amount assessed to tax and NICs. Both employer and employee benefit from the NICs saving.

To obtain the intended tax advantage requires close attention to detail. Salary sacrifice arrangements must be set up correctly, creating the appropriate change in the terms of the employment contract. This is an area that sometimes causes concern. Another area where care is needed is where salary is close to the minimum wage level. Salary sacrifice arrangements must not reduce cash earnings below minimum wage rates, and the position will need monitoring here.

Working with you

We should be delighted to advise further, giving you confidence that your arrangements will withstand HMRC scrutiny.

CAMERAS, ACTION AND A HAPPY TAX ENDING

The Enterprise Investment Scheme (EIS) is one of four venture capital schemes designed to allow certain types of small, higher-risk, unquoted trading companies to raise capital.

The schemes offer significant tax reliefs to individual investors buying new shares in the company. Availability of relief under the EIS was centre stage in a recent case at the tax tribunal brought by Inferno Films Ltd. Inferno, a film production company based in Wales, needed funding to make a psychological thriller, 'The Ballad of Billy McCrae'. Spoiler alert: Inferno won.

In essence, the EIS offers several forms of relief. Chargeable gains on any asset can be deferred by making a qualifying share subscription. The investment itself can attract income tax relief and a capital gains tax exemption on gains made when the shares are disposed of. Income tax relief is particularly generous, at 30% on investments up to £1 million a year, and £2 million a year, if at least £1million of that is invested in knowledge-intensive companies.

A company must meet stringent conditions for relief to be available to an investor. For example, the investment must generally be made within seven years of the company's first commercial sale, and the amount of capital raised in any 12-month period is limited to £5 million (£10 million for knowledge-intensive companies).

> For Inferno, the condition under the spotlight was the risk to capital condition.

This requires the company to use the money for growth and development, and stipulates that the investment should entail the risk of the investor losing more capital than they are likely to gain as a net return.

HMRC argued that Inferno failed here because it did not have 'objectives to grow and develop its trade in the long term'. Specifically, it highlighted Inferno's lack of employees and the fact that it subcontracted many of its activities. It suggested that Inferno was at best, a vehicle to provide finance for a series of individual projects. Inferno said its approach conformed to film industry norms and was the only realistic course of action for a small start-up venture. Its argument was upheld by the tribunal, which found that sufficient long-term aims did exist, as evidenced by its commitment to the Welsh film industry.

Whether you are an investor or a company looking for inward investment, we should be pleased to explain the venture capital schemes in more detail.

CAPITAL GAINS TAX: NEGLIGIBLE VALUE CLAIMS

What happens if you own shares that have become all but worthless – say you bought shares at the start of the pandemic, and their value has plummeted?

In these circumstances, a negligible value claim may work to your advantage. The claim allows you to crystallise a capital loss and use it against other capital gains, or potentially against an income tax liability.

How it works

'Negligible value' is not defined in statute, but HMRC interprets it as meaning 'next to nothing', and the claim means you are treated as having sold an asset, and then immediately reacquired it at the time of the claim, for the value specified in the claim. That value will usually be nil. To make a claim, the asset must, however, have become of negligible value since you acquired it: a claim cannot be made on an asset worth nothing when it was acquired.

It is possible to specify an earlier date in the claim, potentially giving a more elastic timeframe. The provision can thus have effect for up to two years before the start of the tax year in which the claim is made. To make such a retrospective claim, the asset must have been owned at the earlier specified time, and have become of negligible value on, or by, the earlier specified time.

There are strict conditions to be aware of. The asset must still be in your ownership at the date of the claim. If the company has been dissolved, you are automatically treated as having made a disposal of the shares at the time of dissolution. In consequence, you cannot make a negligible value claim on or after the date a company has been dissolved, since you no longer own the shares. All of this means that the timing of claims is particularly important.

Where you want to make a claim for shares and securities for a company in liquidation or receivership, there is specific information HMRC will require to consider the claim, and we can advise further here. HMRC maintains on gov.uk a list of shares and securities in companies previously quoted on the London Stock Exchange that it accepts as being of negligible value.

Note however, that a claim is still required even if your shares are on the list.

There is no published list for unquoted companies, companies formerly quoted on the Alternative Investment Market and PLUS Market, or non-UK companies.

Here to help

Claims are made either via the tax return, or by writing to HMRC. We would strongly recommend discussion in advance of the end of the tax year, in view of the importance of timing and the possibility of backdating claims.

We are always on hand to provide in depth advice on the optimal approach to any capital loss, whether for an individual or a company.

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