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Mabe Allen LLP

Chartered Accountants & Business Advisers

Registered to carry on audit work by the Institute of Chartered Accountants in England and Wales
Regulated for a range of investment business activities by the Association of Chartered Certified Accountants

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NEWSLETTER

Introducing Jason Moore

We are pleased to introduce you to Jason Moore, one of the newer members of our team here at Mabe Allen.

Jason joined us at our Ilkeston office in August last year having trained and qualified whilst working for "Gorings", another long standing local independent Practice, for whom he worked for 28 years before moving to Mabe Allen following internal changes and a relocation of offices at "Gorings".

Jason is a Fellow of the Association of Chartered Certified Accountants having qualified in 1997. He has long experience of managing a portfolio of small and medium sized businesses, across many trade sectors, providing General Practice advice in all areas of accountancy, indirect and direct taxation and business advice in general.

Born and raised in Ilkeston, Jason has his roots firmly set in the town and therefore has an excellent knowledge of local business and the community in general. With an interest in wildlife, sports and outdoor pursuits, he is a keen gardener and enjoys days out walking and cycling with his family.

Kevin Slack said that he is delighted to welcome Jason and his specialist knowledge to the Mabe Allen team of advisers.

MAY 2018

Paying family members: get it right

There are special rules for tax-deductible expenses for the self-employed. To qualify for tax relief, expenses have to be incurred 'wholly and exclusively' for the purpose of the business. There can't be any indication that there is dual purpose. A recent case at the tax tribunal shows how to get it wrong. So how do you get it right?

Not like this

Mr Nicholson wanted to claim wages paid to his student son as a business expense. The son had helped with computing for many years, and when he went away to university, helped with business promotion via the internet and leaflet distribution. Mr Nicholson said, 'Without his help I could not do my job as a central heating salesman and the Internet business I was trying to build.'

Mr Nicholson went to tribunal over payment of £7,400 wages. He argued that he paid his son less than a commercial rate: if he took someone else on to do the work, the business would have had to pay 'an awful lot more.' He based the figure of £7,400 on 15 hours work a week at £10 an hour.

The problem was - there wasn't evidence that the wages had been paid like this. What actually happened was that Mr Nicholson sometimes gave his son cash, and using his own credit card, not only paid for food and drink when visiting him, but also funded the weekly student grocery shop. There were no time records for the hours worked. The tribunal therefore found that the payments had a dual purpose: although they had a business element, they also had a private element; they helped to support a son at university. Mr Nicholson lost his appeal.

Moral

When paying family members, record hours and make sure you can show payments relate to work done. The tribunal was looking for 'some form of methodology in calculating the amount payable and an accurate record maintained of the number of hours his son worked.' Had Mr Nicholson done this, he should have obtained a deduction for the wages paid - without having to appear before a tax tribunal.

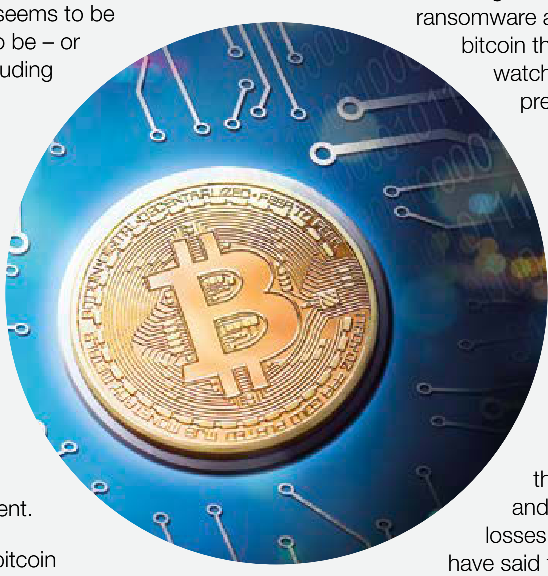
Bitcoin

Bitcoin has been in the news recently as increasing numbers of people have been looking to make money through buying and selling this new 'cryptocurrency.' But what is bitcoin? Can it make a good investment? And where do HMRC fit into the picture?

Bitcoin explained

Bitcoin is a 'cryptocurrency.' Essentially, that means a digital currency generated by a network of computers using sophisticated mathematical formulae. The process of production is called bitcoin 'mining.' Bitcoin can be used for electronic transactions, but it has no actual physical form.

The origin of bitcoin is shrouded in mystery. It was 'created' by 'Satoshi Nakamoto,' a name which seems to be an alias. Various people have claimed to be – or denied being - Satoshi Nakamoto – including Tesla chief, Elon Musk.



Unregulated

According to the European Central Bank (ECB), bitcoin is 'virtual, yes, but currency, no.' That is because unlike, say, the pound or euro, bitcoin is neither issued nor guaranteed by a central, accountable public authority. Another downside cited by the ECB is that there is no protection for those who use bitcoin – it can be stolen by computer hackers. Nor is bitcoin universally accepted as a form of payment.

The ECB's final word of caution is that bitcoin is 'too volatile … Its value has both skyrocketed and tumbled dramatically all within the space of a few days.'

Investment or nightmare?

Analysts describing bitcoin use the vocabulary of drama: words like 'plummet,' 'plunge' and 'unpredictable.' From a record high of $19,850 in mid-December 2017, bitcoin hit a very rocky patch. At one point before Christmas, its value fell by nearly $2,000 in one hour alone.

Safe as houses, it certainly isn't. Prime Minister, Theresa May, is considering action against cryptocurrencies because the fact that they can be traded anonymously makes them open to use in criminal activity. One recent report suggested that half all bitcoin transactions are linked to illegal activity of some kind. In the WannaCry ransomware attack that hit NHS computers in 2017, it was bitcoin that was demanded by the hackers. Traditional watchdogs, like the Financial Conduct Authority, at present have no powers of regulation over bitcoin.

Bitcoin – an Inspector calls

Despite the risks, some people have taken to bitcoin speculation, and HMRC are not unaware of the fact.

Dealing in bitcoin can be a taxable activity. The question will be whether the buying and selling amounts to a trade, and so is chargeable to income tax: or is a chargeable gain on an investment, and so liable to capital gains tax: or whether it is so highly speculative that it is classed alongside activities like gambling and betting, and so is not taxable, nor can any losses be offset against other taxable profits. HMRC have said that they will decide on a case by case basis whether profits or gains are chargeable, or losses allowable.

HMRC published guidance in 2014. It has not been updated since, although HMRC advise that 'given the evolutionary nature of these cryptocurrencies,' they will issue further guidance as appropriate.

GDPR - the final countdown

A new data protection regime comes into force on 25 May 2018. This is D day for the General Data Protection Regulation (GDPR), and most processing of personal data by organisations must comply with GDPR from that date.

The organisation in charge of enforcing compliance is the Information Commissioner's Office (ICO). Its message is that GDPR is 'a huge opportunity for you, as small businesses, to get information handling right.'

GDPR replaces the existing Data Protection Act (DPA), significantly raising the bar on how personal data is handled. Greater protection to individuals is achieved through key changes, such as: an expanded definition of personal data, based on a wider range of personal identifiers: the need to identify a lawful basis for processing personal data: and a range of new rights for the individual, including the 'right to be forgotten.'

Also new is the fact that GDPR applies both to data controllers (those determining how and why data is processed) and data processors (those responsible for processing data on behalf of a controller). Under the GDPR, data processors will be specifically required to maintain records of personal data and processing activities. They will also have increased legal liability for any breaches. Data controllers will have to ensure that contracts with processors are GDPR-compliant.

Although DPA-compliant businesses will, in the ICO's words, be 'well on the way' to GDPR compliance, they will need evidence to show they are implementing the new rules. Failure to comply could result in significant fines.

Information Commissioner, Elizabeth Denham, said, 'We know there are particular challenges for small organisations in preparing for the new law. All organisations are different … whether you're a micro-brewery with 20 staff, or a tech start-up with 200, you can get it right.'

GDPR compliance will need ongoing monitoring and review. We should be delighted to be of assistance.

Keep calm and plan for the future: Brexit

On 29 March 2017, the government triggered Article 50, starting the formal process for the UK to leave the EU. This will happen on 29 March 2019. Brexit: a little word with big consequences and a lot of uncertainty.

All change

At the moment, it is estimated that there are around 12,000 EU regulations in force in the UK, and the government believes that it will probably require over 1,000 new statutory instruments to facilitate our exit. The Withdrawal Bill is intended to 'ensure that the UK exits the EU with certainty, continuity and control.'

The government hopes for a transition period to help businesses and others ease into the new post-Brexit era. The length of the transition period is set to be under two years, ending on 31 December 2020.

But whatever the agreements ultimately hammered out, one thing is certain. Businesses will have new sets of rules to accommodate, and considerable change to adapt to. VAT and customs duties are front runners for change, since they are based on EU law.

Attention farming and land management clients

Farming and land management are areas where the government has already started to give some indication of what a post-Brexit future might look like. The Environment Secretary, Michael Gove, has reiterated that funding for farming will be protected 'in cash terms - for the whole of this Parliament - until 2022.' However, as NFU Scotland point out, 'change is inevitable' and this year's modifications to the Countryside Stewardship Scheme (CSS) in England may suggest the way ahead.

CSS provides financial incentives for farmers and land managers in England to look after the environment through a variety of schemes, from woodland creation to conserving wildlife habitats. The scheme has been simplified to make it easier to apply for, and is currently open for applications. 2018 paper application packs are available from Natural England until 31 May. Applications can also be made online, but here you may need a pre-application pack to help. The deadline for all applications is 31 July 2018.

Analogous schemes are also open for other parts of the UK. In Northern Ireland, farming clients could consider the Environmental Farming Scheme (Wider level), for application later this year. In Wales, Glastir is a sustainable land management scheme offering financial support to farmers and land managers. Its Small Grants (Water) is expected to open to applications in July 2018. In Scotland, the Scottish Rural Development Programme runs a range of schemes, such as the Agri-Environment Climate Scheme (AECS). AECS applications for collaborative projects involving five or more businesses are accepted until 31 May, as are applications for Improving Public Access.

We are always happy to advise on any aspect of farm accounts and taxation, especially as clients look to the future and post-Brexit funding.

Planning for future success

Amid the change and uncertainty, it is more important than ever to stay in the driving seat of your business. Accurate, up to date management information, robust budgets and forecasts will be key tools for any business wanting to minimise risk and maximise opportunity. A survey by the Institute of Directors suggests that 30% of larger businesses have already drawn up contingency plans, and that around 60% of SMEs intend to do so. Making plans to negotiate the run-up to Brexit and beyond can play a critical part in ensuring future success. Do please contact us for help in assessing how Brexit might impact your business and drawing up a contingency plan.

For now, the message is keep calm - and plan for the future.

Is your business owed money?

The 'scourge of late payment' was specifically mentioned in the government's Spring Statement this year. There is government consultation in the pipeline, but with 20% of small businesses running into cash flow difficulties because their bills are paid late, December 2017 saw a new service launched to help.

The Small Business Commissioner (SBC) has taken on a new complaints handling role to assist small businesses by:

- supporting Britain's 5.7 million small businesses to resolve payment disputes and tackle larger businesses' unfair payment practices to drive culture change
- providing a new website to help small businesses with late payment issues
- receiving late payment complaints from small businesses.

There are a number of parameters about which cases the SBC can help with. If the SBC does take your complaint on, it will aim to make its recommendation within six weeks. Its decision is not legally binding, so court action and other options remain open should you require them. The new website can be found here **goo.gl/qd8P24**

Is it a car – or is it a van?

In terms of tax, providing employees with a vehicle which fits within the definition of a van, rather than a car, can be very worthwhile. This is equally relevant to company directors, who are also treated as company employees. A recent tax case sheds interesting light on how cars and vans are defined for income tax purposes.

Advantages

If an employee is given an employer-owned van, where they are given exclusive use of the vehicle, and it is available for private use, there is a taxable benefit. In 2018/19, this is a flat rate charge of £3,350 for vans that emit CO_2.

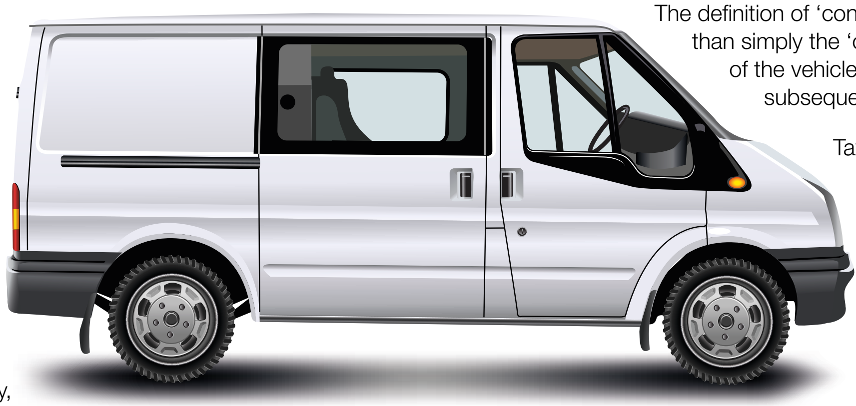
This contrasts favourably with company car rules. The taxable benefit on a company car is generally based on a range of 13% - 37% of the manufacturer's list price of the car, including accessories, and will depend on the carbon dioxide emissions, and whether diesel or petrol driven.

Vans also have advantages over cars in terms of fuel. Where there is a chargeable benefit for an employer-provided van, and the employer provides fuel for the employee's private use, a van fuel benefit charge arises: £633 for 2018/19. As regards National Insurance, provision of either a car or van as a benefit in kind can give rise to an employer charge to Class 1A at 13.8% of the assessable benefit.

Definition

Given the tax at stake, it is not surprising that HMRC's guidance on what constitutes a van runs to many pages. And to add to the complexity, what holds good for Vehicle Excise Duty and VAT, doesn't necessarily hold good for income tax. The key point is whether the vehicle is a goods vehicle – defined as 'a vehicle of a construction primarily suited for the conveyance of goods or burden of any description.'

HMRC have special guidance on off-road vehicles and double cab pick-ups. Double cab pick-ups are, broadly, pick-ups with a second row of seats, capable of seating about four passengers plus driver, with four doors capable of being opened independently, and uncovered pick-up area behind the passenger cab. HMRC say it is not possible 'to come up with a single categorisation for all double cab pick-ups. Nor is it possible to give a blanket ruling on any particular makes … So each case will depend on the facts and the exact specification …' Generally, HMRC define a double cab pick-up as a vehicle with a payload of one tonne (1,000kg) or more, and there is small print about how to define payload and how the vehicle hard top fits into the calculations.



Caution

All this was put to the test in a recent tax tribunal case, where the Vauxhall Vivaro and Volkswagen Transporter Kombi I and 2 came under the spotlight with a degree of intensity befitting a television car show. Each vehicle had been modified.

The judge considered maximum load that could be carried, braking systems, loading areas, modifications like extra seating and storage racks, provision of seat belts, climate controls, power sockets and sound-proofing, not to mention the role of the bulkhead in enabling goods to be carried in the rear cargo section and ensuring protection of passengers in the mid-section. He found that the Vivaro was a goods vehicle, but the VW Kombi was multi-purpose, and should be classed as a car. The judge suggested that vehicle modifications did not need to amount to a 'fundamental alteration in structure' in terms of 'core framework or chassis or body.' The definition of 'construction' could be wider than simply the 'original construction' of the vehicle and could include subsequent modifications.

Tax tribunals do not produce binding legal precedent. But this case serves as a reminder that company vans can have tax advantages, and that in this complex area, professional advice is always advisable.

Pensions auto-enrolment: the story continues

'As an employer you provide the teabags … But you're also responsible for providing a workplace pension … It's the law.'

All employers now have responsibilities under the pensions auto-enrolment (AE) regime, as this reminder from the Pensions Regulator (TPR) shows. Anyone employing at least one person is classed as an employer, and must put certain staff into a pension scheme and contribute towards it.

The regime does not stand still. From 6 April 2018, there are changes to the minimum AE contributions that must be made by both employer and employee. The total of minimum contributions rises to 5% from this date, being a minimum employer contribution of 2% and staff minimum of 3%. Further increases apply from 6 April 2019, when employer minimum rises to 3% and staff minimum to 5%.

The government is monitoring the AE regime closely. Whilst TPR has published figures showing a record number of 9.3 million people saving for a future pension, there is still concern that even the projected increase in AE contributions is 'unlikely to give all individuals the retirement to which they aspire.' A recent government review pledges to focus on younger people, part-time workers and the self-employed in the next round of AE developments. One change suggested is lowering the age threshold for AE from 22 to 18. It is also suggested that pensions contributions be calculated from the first pound earned, rather than from a lower earnings limit. However, it is not expected that these changes will be implemented until the mid-2020s.

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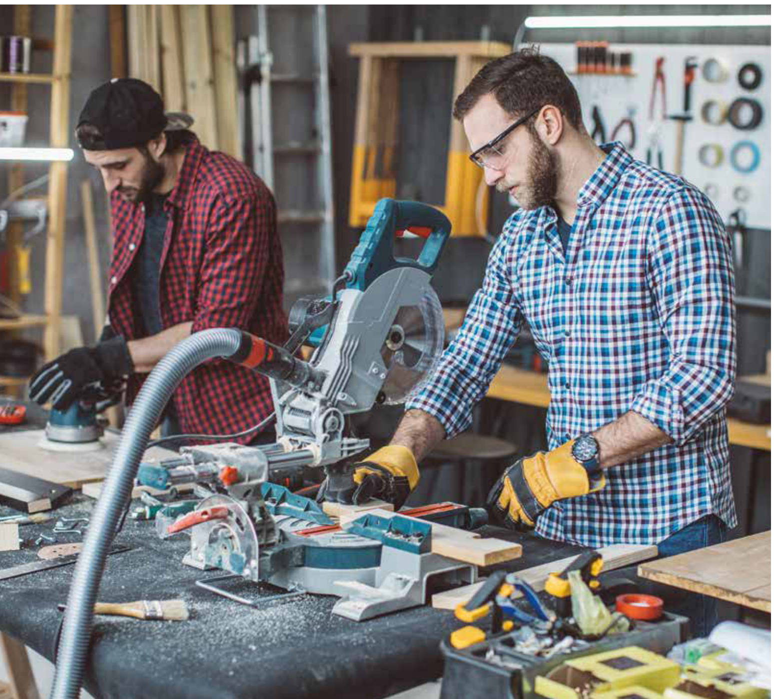
Running your business as a company

The question of whether to run a business as a limited company is a major decision. In this briefing, we look at some of the points to consider.

The choice of an appropriate structure for your business – be it sole trader, partnership or limited company – will have immediate consequences. There may be tax savings involved in running a company, and this is certainly an important factor. But the calculations are complex. They depend on the level of profit made; the proportion of profit retained in the business; and the type of business. Attention to the remuneration package, business structure and personal circumstances of the director-shareholders is also needed.

Going forwards, incorporation can give you access to tax-advantaged investment opportunities, such as the Enterprise Investment Scheme. You may also be able to obtain tax incentives on research and development.

But incorporation is not just about tax. It also brings your business within the scope of many regulatory systems. You will have to make returns to Companies House, and set up a PAYE scheme to pay director-shareholders. Such 'red tape' may involve you in compliance costs, and making a balanced decision means taking all these factors into account.



Thinking about tax

Income tax v corporation tax

In the first instance, it is the company, not the director-shareholder, that pays tax on profits. Thanks to the government's aim of creating the lowest corporation tax regime in the G20 block of nations, rates here are very low – and falling.

Corporation tax is currently 19%, regardless of the level of company profit. For the financial year beginning 1 April 2020, it falls to 17%.

Unless profit is very low, the tax due on profits made within a company will be less than that paid on the same profit figure by a sole trader or partner. But there can be further tax, depending on how much profit is distributed to director-shareholders.

How best to extract profits?

You can use a variety of strategies to extract profits. Many director-shareholders take a basic salary from the company, and then extract profits by way of dividends.

Salary and National Insurance Contributions (NICs)

As a director-shareholder, you are an employee of the company. Any form of cash remuneration, such as a salary or bonus, or taxable benefit (medical insurance, car etc), is taxed as employment income and liable to income tax in the normal way. Employment income attracts Class 1 NICs, for which both the director-shareholder (the employee) and company (the employer) may be liable. In 2018/19, Class 1 NICs are:

- 12% for the individual on any income over £162 a week (£8,424 per annum) up to a limit of £892 a week (£46,350 per annum), and then 2% on any excess
- 13.8% for the employer on earnings over £162 a week (£8,424 per annum), with no upper limit.

Though employees are not liable to NICs on benefits, Class 1A NICs are generally due from the employer at 13.8%.

Director-shareholders have considerable flexibility here. Often the most tax efficient strategy is to take a salary pitched between the Lower Earnings Limit for NICs (£116 per week for 2018/19) and the

NIC primary threshold (£162 per week for 2018/19). This can help retain state pension entitlement, but take the payment of NICs out of the equation. The balance of post-tax profits can then be taken as dividends. Also on the positive side, salary is tax deductible for corporation tax purposes.

Dividends

Dividends received by an individual have their own distinct tax treatment. They are not liable to NICs. Tax is paid on dividends at:

- 7.5% for basic rate taxpayers
- 32.5% for higher rate taxpayers
- 38.1% for additional rate taxpayers.

Combined with the Dividend Allowance, which taxes the first £2,000 of dividends received in a tax year at 0% (with effect from 6 April 2018), these rates can produce a favourable outcome for the taxpayer. But remember that dividends are paid out of taxed profits, so corporation tax also needs to be factored in.

Pension provision

It should be possible for your company to make contributions into a registered pension scheme (subject to certain limits) for director-shareholders, without this being treated as an assessable benefit. Expenditure must be paid wholly and exclusively for the purposes of the trade in order to be deductible for the company. This contrasts with the position for sole traders and partners, where pension contributions would be considered a private expense and tax relief, if due, given to the sole trader or partner.

What savings could there be?

Here we consider the position for a husband and wife partnership in 2018/19.

Profits:	£50,000	£100,000	£200,000
Tax and NI payable:	**£**	**£**	**£**
As partners	8,550	23,998	65,998
As a company	7,499	20,037	63,237
Potential saving	1,051	3,961	2,761

These figures assume that the couple share profits equally, have no other sources of income, and that both take a salary of £8,424 from the company, with the balance (after corporation tax) paid as a dividend.

Leaving profits in the company

Where director-shareholders do not need to extract all the profits from the company to meet current expenditure, profits can be left in the company. This opens up further planning possibilities. It may be possible for example, to choose to extract in a later year, when income tax rates may be lower. It may also be possible to extract profits by means of a capital gain on a sale of shares or on the liquidation of the company in the future. Particular care is needed in what is a complex area, and consideration must also be given to HMRC's targeted anti-avoidance rules.

When retaining profits in your company, cut off points to consider would be where income can be kept below £100,000, this having the advantage of keeping personal allowances: and £150,000, which means an individual can stay out of additional rate tax.

In tax terms, trading as a limited company can often be advantageous, but it should be stressed that it is not a one-size-fits-all solution. Working out what would be best in your circumstances means making calculations unique to you, and we would be delighted to be of service in this regard.

Incorporation: advantages and responsibilities

There are also non-tax factors which can encourage business owners to think about incorporation. Key among these is obtaining limited liability. Where shares are fully paid, you cannot normally be required to invest any more in the company. However, banks may often require personal guarantees from directors for borrowings. The advantage of limited liability thus generally applies in respect of liabilities to other creditors.

Incorporation can bestow a degree of reputational credibility which can be important when selecting an appropriate business structure. A company enjoys legal continuity, being a legal entity separate from its shareholders. It can own property, sue and be sued. Transfer of ownership of a limited company can be more readily effected than with businesses differently structured. In terms of borrowing, a company can also have advantages. Normally a bank is able to take extra security by means of a 'floating charge' over the assets of the company, which will increase the extent to which monies may be borrowed against the assets of the business. These are all points to weigh up when deciding on the most appropriate structure for your business.

Administration and publicity

Incorporation means regulation – and regulation is almost always costly. Annual compliance costs for your company for instance, in terms of administration and accounting, can be higher than costs for a sole trader or partnership. Annual accounts need to be prepared in a format dictated by the Companies Act, and in certain circumstances, the accounts will need to be audited by a registered auditor.

The degree of transparency required of a company makes it very different from operating as a sole trader or partnership. Details of directors and shareholders are filed on the public register held by the Registrar of Companies, for example.

Other responsibilities

- Company directors have certain statutory responsibilities, and as such, may be at risk of criminal or civil penalty proceedings for non compliance.
- All employers have pensions responsibilities under auto-enrolment. Directors' earnings are potentially within this regime.
- IR35 rules: 'false self-employment' is an area facing considerable government scrutiny – namely those cases in which an individual is to all intents and purposes an employee, but is treated as self-employed. The IR35 regime is part of this clamp down, and is designed to prevent avoidance of tax and NICs through the use of personal service companies (PSCs). Managed Service Companies, sometimes known as 'composite companies' or 'managed PSCs,' also come within these rules. The rules are complex and subject to ongoing government intervention. Changes have been made to the IR35 rules in relation to engagements in the public sector – 'off-payroll working in the public sector.' Consultation is due this year on whether the public sector reforms should be extended to the private sector. Should IR35 potentially apply to you, we would be pleased to help with the necessary record keeping and other calculations.
- Persons with significant control: almost all companies are required to keep a register of people with 'significant control.' This is intended to increase transparency regarding control and ownership of UK companies, but also adds to the administrative burden on companies.

How we can help

We have only been able to outline some key issues involved here. Please do not hesitate to contact us for further advice on forming or running a company.

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Letting out property

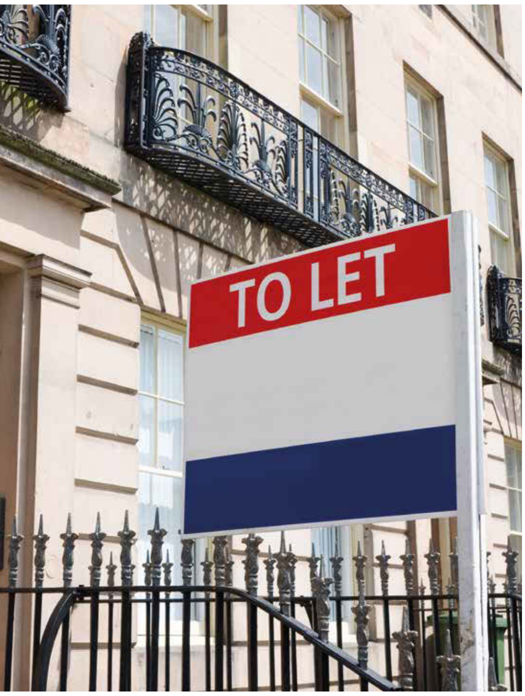
Property letting is a complex area, subject to significant ongoing change. One major development is the restriction on tax relief for landlord interest costs, currently being phased in over a four-year period. Another important change affects the way in which income and expenses are treated for accounting purposes. This briefing examines some of the key issues involved.

Changes to tax relief for landlord interest costs

Tax relief for landlords of residential properties has been changing since April 2017. This will particularly affect the owners of buy to let properties.

Landlords are no longer able to deduct all finance costs from property income. Instead, there is a basic rate reduction from income tax liability. The new rules apply to costs such as mortgage interest, interest on loans to buy furnishings, and fees incurred when taking out or repaying loans or mortgages.

For 2018/19, only 50% of finance costs will be allowable, down from 75% in 2017/18.



Remaining finance costs for each year are given as a basic rate tax deduction, but note that this cannot be used to create a tax refund. Looking to the future, in 2019/20 only 25% will be allowable. In 2020/21, withdrawal is complete, no part of the finance costs being allowed.

Relief for finance costs may be restricted further where either the landlord's total property income, or total taxable income excluding savings and dividend income, is less than finance costs incurred. So by 2020/21, if net property income is £4,500 before interest of £6,000, the landlord thus making a £1,500 loss, £4,500 is nevertheless taxable. Also, the interest relief is restricted to £4,500 at 20%, rather than £6,000 at 20%. The unrelieved interest (£1,500 at 20%) is carried forward and may get tax relief in a later year.

How will this affect you?

Non-allowability of finance costs could affect the level of income at which High Income Child Benefit Charge or tapering of the personal allowance apply.

The finance restriction may push some basic rate taxpayers into higher rates of tax, and it is important to monitor year on year what impact the change will have in your circumstances. Higher tax bills are on the agenda, and we can quantify this for you when your tax return for 2017/18 is submitted. There may be ways in which you can restructure your affairs to accommodate these changes, and this is something on which we would be pleased to advise.

Note that the interest relief restrictions do not apply if you run your business as a company, or operate furnished holiday lets.

Operating as a company

There have been many suggestions in the media that the restrictions on finance costs make it better to operate as a company. This however, is always a complex calculation. If incorporation is something you would like to consider, we should be happy to help you weigh up the implications in your specific circumstances.

One factor in favour of incorporation is that corporation tax rates are low in comparison with personal tax rates. Thus, more funds may be available for reinvestment in additional properties.

However, there are other issues to consider when holding investments in a company, such as:

- Income tax charges if significant rental profits are distributed to shareholders.
- A potential double tier of capital gain on sale of property. Corporation tax is payable on the capital gain. If the gain is distributed to shareholders as a dividend, there is an income tax charge on the dividend paid.

Capital gains have previously been reduced by an inflation adjustment for the period that the company has owned the property. This is known as indexation allowance. But for disposals on or after 1 January 2018, indexation allowance will only be calculated up to December 2017.

- The different treatment of assets held by the individual on death may affect tax paid on subsequent capital gains if properties are eventually sold. If properties are held directly by an individual, inheritance tax (IHT) liabilities are based on value of the properties at death, with the value of the properties uplifted to market value to calculate future capital gains. If the individual has a property investment company, shares in the property company are valued for IHT purposes at market value, but the properties themselves remain at original base cost.

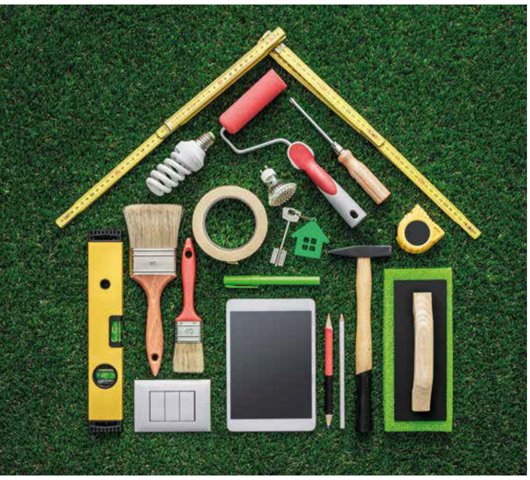
Transferring an existing property portfolio into a company requires very careful consideration, there being potential capital gains and stamp duty liabilities on the property transfer. All in all, bespoke advice will pay dividends. We would be happy to provide further advice on the impact of running a property investment company.

Property repairs and renewals

There are potentially subtle distinctions when it comes to the tax treatment of money spent by landlords on repairs and renewals. Some repairs and renewals will be treated as revenue costs, which are generally allowable for tax purposes: other items as capital expenditure, which is not allowable.

It is important to identify the asset on which work is undertaken. For example, where a *fixture* in a property is replaced, the asset may be considered as the whole building, not the fixture: thus, replacing a fixture can be treated as the repair of the building. This, however, is an area in which meticulous attention to detail is necessary to avoid expensive mistakes as regards tax treatment. Please do consult with us before incurring any expenditure so that we can advise on the most beneficial procedure.

Tax relief on the *replacement* of an asset will generally only be available if the asset qualifies under the new rules for replacement of domestic items.



Replacement of domestic items relief

From 2016/17, (1 April 2016 for corporate landlords), replacement of domestic items relief replaces wear and tear allowance for furnished lets. It gives tax relief for domestic items (including furniture, appliances, curtains, carpets, crockery) bought for the sole use of the tenants in the let property, the old item being no longer available.

Essentially it covers like for like replacement. Where the new item is an upgrade, relief will be restricted. Initial cost of purchase is disallowed for tax purposes, but the full cost of replacement is allowed.

This relief is available to all landlords, not just those letting out fully-furnished property - unlike wear and tear allowance.

Change to basis of accounting for landlords

From 2017/18, profits and losses for unincorporated landlords are calculated on the cash basis, as opposed to Generally Accepted Accounting Principles (GAAP) or 'accruals' basis of accounting. Cash basis is now the default unless a landlord opts out - by making an election on the tax return - or has annual rental receipts in excess of £150,000.

Joint owners are treated as carrying on their own property business. So if eligible for cash accounting, each individual owner makes a decision on joining. Thus, where owners differ, it could mean preparing two sets of accounts for the same business. This is not the case for spouses/civil partners, however. They are required to calculate profits on the same basis as each other.

We can help you decide on the appropriate basis for your business.

Jointly-held property

Where property is jointly held by spouses or civil partners, each is taxed on half the income, unless a special election is made, and it can be shown that each party made a different capital contribution. It is therefore important to check legal ownership. Changing profit shares alone does not alter the tax liability.

Additional Stamp Duty Land Tax (SDLT)

For properties in England and Northern Ireland, a higher rate of SDLT is payable on additional residential properties bought on or after 1 April 2016, where the purchase is for £40,000 or more.

Where the additional property replaces the main residence, the higher rate does not apply. If a purchaser buys a new main residence, but the sale of the previous main residence is delayed, higher rate will pertain. The purchaser can, however, obtain a refund for the amount in excess of normal SDLT rates, if the previous main residence is sold within three years. Where the purchaser already has two or more properties, and the main residence is sold, they will not pay higher rate if a new main residence is purchased within three years.

Joint purchases

Where the purchase of additional property is a joint purchase, then if higher rate SDLT would apply to either party, it will apply to both. Spouses or civil partners are treated as joint purchasers, even if the additional property is bought individually by one of the couple.

Example

Bronja owns a house which she and her husband live in as their main residence. Her husband is planning to buy a flat to rent out: this will be in his sole name. As a married couple, all property owned by Bronja or her husband is treated as being owned jointly. The purchase of the flat will therefore be classed as an additional residential property.

Companies

SDLT higher rate also applies to companies purchasing residential property worth £40,000 or more.

Scotland: Land and Buildings Transaction Tax (LBTT)

In Scotland, there are equivalent rules – the LBTT Additional Dwelling Supplement, which is charged at 3% of the total purchase price of the dwelling.

Wales: Land Transaction Tax (LTT)

From April 2018, LTT replaces UK SDLT in Wales, and again higher rates are payable on purchases of additional residential properties.

Capital gains tax (CGT) rates

CGT rates have fallen since 6 April 2016. Chargeable gains within the basic rate band are now taxed at 10% and non-basic rate band chargeable gains are taxed at 20%. However, these rates do not apply to gains on residential properties. CGT rates on chargeable gains on buy to let properties therefore remain at 18% and 28%, depending on where the gain sits within the relevant income tax band.

Commercial property

Commercial property has its own distinct tax rules. These include non-residential SDLT rates and lower CGT rates. The rules on restriction for finance costs (above) do not apply to commercial property. If you are considering investing in commercial property, we would be happy to advise further.

How we can help

Property is a complex area, subject to considerable regulation and change. We have only been able to consider a variety of key areas in this briefing. Please do not hesitate to contact us for further advice on any of the tax and accounting issues involved.