DUFTON KELLNER

CHARTERED ACCOUNTANTS

INVESTOR IN PEOPLE

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Taking Someone On – Keep It In The Family?

Taking someone on is an important role. Firstly, you need to ascertain the person's correct employment status, and then check that they can legally work in the UK. Getting this wrong can be costly. The following websites can help:

- Check if someone can work in the UK www.gov.uk/legal-right-to-work-in-the-uk;
- Employment status: Employed or self-employed?- www.hmrc.gov.uk/payerti/employee-starting/status.htm.

If you are taking on an employee who is legally entitled to work in the UK, you need to register for PAYE with HMRC. This can be done online via the HMRC website at www.hmrc.gov.uk/payerti/getting-started/register.htm#3.

Setting up a payroll

Once registered for PAYE with HMRC, you are responsible for calculating and deducting PAYE tax and NICs from your employee's pay and making payments to HMRC under the Real Time Information system (RTI). You must pay your workers at least the national minimum wage as defined by law.

Each time you pay your employee, you must calculate and deduct the correct amount of tax and NICs and provide them with a payslip. You must also calculate and pay an employer's NICs and pay these amounts to HMRC.

Record-keeping

Keeping and maintaining accurate payroll records is a legal requirement. You must keep records for the current and previous three tax years. You must also keep records of any expenses and benefits, such as company cars or medical insurance, which you provide to your employees.

Employing your family

It is possible to employ family members and take advantage of lower tax rates and personal allowances that may be available to them. In turn, this arrangement helps reduce the household's overall tax bill. Do, however, bear in mind:

- Real work must be undertaken and a proper commercial wage paid.
- Check local authority rules on children working.
- Family members (over 16 years of age) who earn more than the weekly lower earnings limit (£109 for 2013/14) are liable for NICs. As the employer, you may also have to pay NICs on their behalf.
- The remuneration must actually be paid to the employee and evidence of this retained.

In 2013/14 you could pay a family member between £109 and £149 per week. Although the family member as an employee does not have to pay NICs (nor you as an employer, on payments up to £148 per week), the employee protects his or her entitlement to a future state pension and other state benefits by doing so.

Example - John helps his Dad

Arthur runs a small repair business. His 16-year-old son John helps him for five hours a week at £6.00 per hour, earning a total of £30 per week. This amount equates to £1,500 a year, allowing for school holidays and some overtime.

Arthur can offset the £1,500 he pays John against his profits for income tax purposes. If John has no other income, he will not pay tax on the money because he falls below the annual tax-free personal allowance (£9,440 for 2013/14).

If Arthur had done the work himself and not employed John, that £1,500 remains part of his taxable profits for the year and he would be liable to tax and NICs on it. If Arthur was liable to tax at the 40% higher rate, and had already paid NICs up to the upper profits limit on his other income (£41,450 for 2013/14), the household would receive only £870 (£1,500 – (£1,500 x 40% plus £1,500 x 2%) instead of the full £1,500.

Practical Tip:

Once you have set up your payroll you can contact the HMRC New Employer Helpline (telephone: 0300 200 3211) for help and advice with any unfamiliar issues such as sickness pay, student loan deductions, etc.

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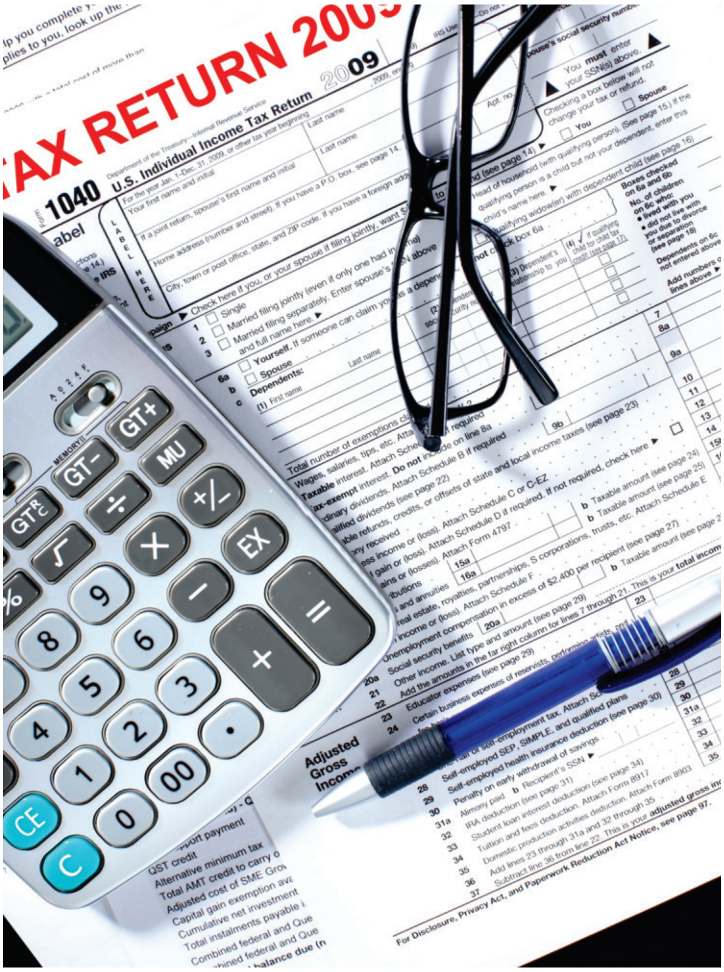

How to Time Payments To Delay Tax

Payments of remuneration by a company are an allowable expense for corporation tax. They are taxable on the employee or director who receives them, but with a little care the tax payable by the recipient can be delayed.

Payments of remuneration for services rendered during an accounting period of a company, and included in its accounts, will be an allowable deduction for that period, provided they are actually paid within nine months of the company's year end.

Example – Timing of a bonus

A company makes up its accounts to 31 December each year. For the year ending on 31 December 2012, the directors decide to award themselves a bonus of £50,000. A provision is made in the accounts for this, and provided the bonus is actually paid by the end of September 2013, £50,000 can be deducted from the company's profits for corporation tax purposes.

As far as the directors are concerned, if the bonus is shared out after 5 April 2013, it will fall into the 2013/14 tax year.

The benefit of this arrangement in the above example is that the corporation tax payable on 1 October 2013 in respect of the 2012 accounts is reduced by the £50,000 deduction. If the bonus had not been provided for in the 2012 accounts, the benefit of the tax deduction would come a year later, when the corporation tax for the 2013 year was payable on 1 October 2014.

Trap:

In the above example, I referred to the 'directors' in the plural. If you are the sole director of your company, you will need to be very careful if you decide to use this method of relating a bonus payment back to a year that has ended.

This is because the PAYE rules for directors are different to those applying to ordinary employees.

Normally, an employee is deemed to have been paid a sum of money (for the purposes of deciding when PAYE is due) when he is actually paid, but a director is deemed to be paid (and so PAYE must be operated) on the earliest of the following times:

- When the earnings are credited in the company's records;
- In a case where the earnings are determined before the end of the accounting period, they are deemed to be paid at the end of that period; or
- In a case where the earnings are determined after the end of the accounting period, they are deemed to be paid on the day they are determined.

The directors in our example were able to defer PAYE because the £50,000 provided in the company accounts was not allocated to specific directors, and so they were not 'paid'for PAYE purposes until the amount to be paid was 'determined' and they will have taken care to do this after 5 April 2013.

If you are a sole director, it is still possible to use this method but you should take advice from your accountant or tax adviser, because it is easy to make mistakes and under the new RTI regime for PAYE, these can be costly.

The other point to consider is whether the payment of a dividend might be more tax efficient. Although dividends cannot be deducted in calculating the company's corporation tax liability, in nearly all cases it is more tax-efficient for family companies to pay dividends because the combined rates of tax in the company and for the individual director/shareholder are lower than those on payments of remuneration, and unlike remuneration, there is no NIC payable.

Practical Tip:

If you need to pay a bonus rather than a dividend for the year, make sure it is deductible in the accounting period just ended – but be careful this doesn't trigger a PAYE liability before the payment is actually made.

Property Companies – Time For A Rethink?

There was a time when a limited company was considered the best way to hold rented properties; then the times (and the tax rates) changed and holding investment properties in a company became less attractive.

With rates of corporation tax plummeting over the last few years, and set to reach 20% for all companies in a couple of years, it may be the time to reconsider the use of a property company.

In particular, if part of your strategy involves selling properties to realise the capital gains they have made (and property prices seem at last to be rising again!), bear in mind that the company will pay only 20% on its capital gains, whereas you (if you are a higher rate taxpayer) will pay 28%.

When considering whether to use a company to hold your properties, much depends on the size of your planned portfolio, and how much cash you want to extract from it. If the plan is to reinvest the rental profits and acquire more properties, then the company will only pay 20% tax on its profits, whereas you could be paying 40% or even 45%.

If you want to draw out the profits for your own use, however, a company will not save you significant sums in tax, because when you draw out the profits as dividends (the most tax-efficient way to do this) the effective rate of tax for a 40% taxpayer is 25% on the dividend paid, and when you bear in mind that dividends are not tax deductible for the company, it works like this:

Example – The cost of drawing company profits

Derek is a 40% taxpayer. His property company makes a profit of £30,000, and he wants to pay this out as a dividend. He can only pay a maximum of £24,000, because the other £6,000 is needed to pay corporation tax. On his £24,000, he will pay income tax of £6,000, so the total tax paid by him and the company is £12,000, or 40% of the profits – exactly the same tax he would have paid if he owned the properties directly.

If Derek leaves the profits in the company to invest in more properties, however, he will have £6,000 more to invest than he would have if he owned the properties directly.

Timing

A company can decide when to pay dividends, so to some extent this enables you to control the rate of tax you pay on your dividends. If you own properties directly, you are taxed on the profit as it arises and apart from the timing of expenses like repairs, there is little you can do to change this.

Things a company cannot do

It is also worth bearing in mind that there are certain strategies that only work in the case of properties you own personally rather than through a company:

- **Equity release** – as a property owner, you can remortgage a property and use the cash for your own purposes, provided the mortgage is no greater than the market value of the property when it was first let. A company can, of course, remortgage its properties in the same way, but to extract the cash you will need to receive a (taxable) dividend.
- **Main Residence** – the exemption from CGT on your "only or main residence" does not apply if the property is owned by a company – indeed, there is likely to be a tax charge on you for the benefit of being allowed to occupy the property!

Practical Tip:

Whether a company will be the best way to own your property portfolio depends very much on what your business strategy is. As with most tax matters, there is no "one size fits all" answer to the question, but it is a question every property investor should be asking themselves.

Personal Tax

Provide Benefits To P9D Employees Tax-Free

The vast majority of non-cash benefits are only taxable when provided to employees earning at a rate of more than £8,500 a year (P11D employees) and to directors. P9D employees are only taxed on benefits in money or money's worth (such as those which can be converted to cash by sale or surrender) or which are taxable on all employees, such as living accommodation. This provides the opportunity to provide P9D employees with tax-free benefits. This can be useful in a small family company where an employee only works maybe one day a week.

However, in working out whether an employee is a P9D employee earning at a rate of less than £8,500 a year it is necessary to take into account the cash equivalent value of any benefits provided.

Case Study:

Lucy works six hours a week, earning a salary of £3,120 a year. As her job involves making deliveries, she also has a company car with a cash equivalent value of £4,000.

Lucy earns at the rate of £7,120 a year (cash salary of £3,120 plus benefits in kind of £4,000). As her earnings rate is below £8,500 she is not taxed on the provision of her company car as the benefit of a company car is only taxable on P11D employees and directors.

The car is provided to Lucy tax-free. Further, there is no Class 1A National Insurance liability on her employer.

Property Tax

Tax Relief On Personal Loans

Interest on personal loans taken out for business purposes is deductible from rental income received.

Examples:

- Mortgage providers currently require a deposit of at least 20% of a property's value before lending the remaining 80%. If the 20% is not available, the owner can finance via a personal loan and the interest paid will be fully allowable.
- Should refurbishment or other building work be required, interest paid on a personal loan to finance the work will be fully allowable.
- If the property is to be rented fully furnished or as a Furnished Holiday Let, items such as a cooker and a fridge will be required. These items can be purchased on loans repayable over a period (usually 6 or 12 months) and the interest paid on these loans is also fully allowable.

Case Study:

Bill is refurbishing a number of properties in his portfolio but has a cash-flow problem. He will be unable to pay his builders at the end of the week. He knows that the shortfall will be temporary and therefore applies for a short-term loan from the bank.

The interest charged is 12% but the interest paid will be allowable in full against the rental income as the loan has been incurred for the purpose of running his business.

Business Tax

Dispensations For Employers

You can save a considerable amount of time and money by applying to HMRC for a dispensation for certain business expenses reimbursed to employees by the company.

A dispensation frees the employer from having to report certain expenses to HMRC and can be granted for those expenses in respect of which a corresponding tax deduction can be claimed.

A dispensation also removes the need for the employee to claim the tax deduction, saving work all round.

This applies to any size of company, from a one-person company to large multi-nationals, although obviously the more employees you have, the more time you will save in not having to complete the sections of the P11D that are no longer relevant once a dispensation has been granted.

Case Study:

Frank is fed up with the time-consuming job of completing P11Ds for his employees when all he does is reimburse business expenses.

He applies for and is granted a dispensation for the business expenses of his employees.

This means that he no longer has to complete P11Ds for the employees as no benefits are reportable. Therefore it leaves him with more time to get on with running the business.

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