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Choose Your Corporation Tax Payment Date Carefully

Corporation tax is generally due for payment nine months and one day after the end of your accounting period. Consequently, if you prepare annual accounts to 31 December, your corporation tax must be paid no later than 1 October in the following year.

Therefore, it is possible to choose when you want to pay your corporation tax by choosing an accounting date nine months previously. If your business is seasonal this can be useful to ensure that your corporation tax falls due in a period when cash flow is buoyant rather than when things are tight.

Changing accounting date

A company's accounting date is generally governed by the date on which the business was incorporated, as the accounting reference date (i.e. the date to which statutory accounts are prepared) is the last day of the month in which the company was incorporated.

For example, a company that was incorporated on 2 August will have an accounting reference date of 31 August. A company which prepares its accounts to 31 August will have a corporation tax due date of 1 June.

Where corporation tax payment date falls at a bad time, for example when business is slack or when the company has other heavy financial commitments around the same time, it may be beneficial to change the accounting reference date and consequently the corporation tax due date.

Example 1: Change of accounting date

LMN Ltd has been in business for many years, preparing accounts to 31 October each year. Consequently, the company's corporation tax is due by 1 August. Business is slow in the summer and cashflow is tight.

To ease cashflow, the company changes its accounting reference date to 31 March, so that its corporation tax is due by 1 January when cashflow is easier.

Long accounting periods

There may be times where the period covered by the statutory accounts is longer than 12 months, for example the first set of accounts following a change of accounting date. Although statutory accounts can be prepared for a period of more than 12 months, for corporation tax purposes an accounting period cannot be more than 12 months. A period of accounts of more than 12 months must be split into two periods for corporation tax purposes and the company must file two company tax returns. The tax relating to each split period is generally due nine months and one day after the end of that period.

Example 2: Long period of account

OPQ Ltd has historically prepared its accounts to 31 March. However, a corporation tax payment date of 1 January is difficult from a cash flow perspective. The company changes its accounting reference date to 30 June to move its corporation tax payment date to 1 April.

As a result of the change of accounting reference date, it prepares statutory accounts for the 15 months from 1 April 2013 to 30 June 2014. For corporation tax purposes, this 15-month period is split into two shorter periods –12 months to 31 March 2014 and 3 months to 30 June 2014. The profit is apportioned to each period by reference to the number of days in each. Separate company tax returns must be filed for each period.

Consequently, for the changeover period, the corporation tax is payable in two instalments – by 1 January 2015 for the 12 months to 31 March 2014 and by 1 April 2015 for the three months to 30 June 2014. Thereafter the corporation tax period will align with periods for which the accounts are prepared and a single return will be filed.

As indicated, where accounts are prepared for a period of more than 12 months, two company tax returns are needed as a corporation tax accounting period cannot be more than 12 months. Thus it is not possible to delay payment of corporation tax by preparing accounts for a longer period.

Practical Tip:

To change your accounting reference date at Companies House, you need to file form AA01.

IN THIS ISSUE

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Inter-Spouse Transfers And Capital Gains Tax Main Residence Relief

Exemption from capital gains tax

There is no capital gains tax (CGT) charge on any capital gain made on a disposal (e.g. sale) of a dwelling house that has been the main residence of the owner throughout the period of ownership. Often a married couple (or civil partners) (who are permitted to have only one main residence) own their residence jointly (typically, but not necessarily, 50:50) in which case no CGT arises on either party on any gain made on a disposal.

If the property has not been used as a residence for any period of time then some part of any gain made on disposal will be subject to CGT. Because the marginal rates of income tax of spouses may be different (and thus the rate of applicable CGT) inter-spouse transfers of interests in the residence are often effected to mitigate tax charges.

CGT free inter-spouse transfers

Generally, transfers of assets between spouses take place at no gain/no loss for CGT purposes.

Example 1: CGT free transfer

Tom and Tina are married. Tina owns equities valued at £150,000, which she bought for £100,000. Tina transfers (i.e. gifts) the equities to Tom.

For CGT purposes, Tom is assumed to have acquired the equities for £100,000 (not £150,000), i.e. Tina makes no gain on the transfer and hence no CGT arises on her part.

Inter-spouse transfers of interest in a main residence

However, inter-spouse transfers of interests in a main residence are subject to special provisions and depending upon the timing of any such transfers a larger CGT bill may arise on a subsequent disposal than would normally be expected.

Example 2: Inter-spouse problem transfer

Alice purchased a property for £100,000 in July 1994 in which she lives. She married Tom in July 2004.

She is considering giving Tom, now they are married, 50% of the property as they are thinking of buying another property into which they will move and then in due course sell the old property.

For CGT purposes should Alice give Tom 50% before they move out or after?

They move out in July 2014 and the property is sold in July 2014 for £500,000.

A. Assume the gift is made in July 2004 just after they marry and before they move out

Alice and Tom each make a capital gain of:
[[£250,000 - £50,000] x 8.5/20] = £85,000 (8.5 represents the chargeable part of the 20 years of ownership in this example).

Aggregate capital gains £170,000.

B. Assume the gift is made in July 2004 just after they marry and after they move out of the property

Alice makes a capital gain of [[£250,000 - £50,000] x 8.5/20] = £85,000.
Tom makes a capital gain of [£250,000 - £50,000] = £200,000.

Aggregate capital gains £285,000.

Under 'A', Tom is assumed to have acquired his 50% not at the date of the actual transfer but at the date the property had been acquired by Alice and is also assumed to have been his main residence from that time. Under 'B', Tom is assumed to have acquired his 50% on the date of the actual transfer at which time it is not his main residence.

Pre versus post marriage inter-spouse residence transfers

A similar problem may arise where X owns his residence 100% and wishes to transfer an interest therein (say 50%) to Y, who he is to marry. X and Y will then live in the property after marriage. Should X make the gift before or after they marry?

Example 3: Inter-spouse transfer or not?

X purchased his residence in 1994 for £250,000. He lived in the property for 8 years as his main residence but then vacated it for 6 years, re-occupying it in 2008 on the day of marriage.

He proposes to marry Y in 2008 at which time the property is worth £500,000. The property is sold in 2014 for £650,000.

Assume X transferred 50% to Y the day before marriage

Y is treated as acquiring the 50% for £250,000 (note - the transfer is not an inter-spouse transfer and market value applies to the 50%).

On sale, Y's capital gain is totally exempt from CGT as Y has always lived in the property as her main residence between 2008 and 2014.

On sale X's capital gain is [[£325,000 - £125,000] x 6/20 = £60,000.

Aggregate capital gains £60,000.

Assume X transferred 50% to Y the day after marriage

Y is treated as acquiring the 50% interest for £125,000.

On sale X and Y's capital gain is each [[£325,000 - £125,000] x 6/20 = £60,000.

Aggregate capital gains £120,000.

Practical Tip:

Inter-spouse transfers of a main residence may be problematic. It is therefore important to ascertain the precise timing if CGT liabilities on an eventual disposal are to be mitigated.

AIA Pitfalls – Unexpected Quirks In The Capital Allowance Rules

A recent tax case (Keyl v Revenue & Customs [2014] UKFTT 493 (TC)) concerned a failed claim for the annual investment allowance. This article examines certain circumstances in which this valuable tax relief cannot be claimed.

Capital allowances are claimed when a business spends money on (among other things) 'plant and machinery'. Normal allowances consist of writing down the cost of the plant at either 18% per year, or 8% in the case of certain categories of plant including 'integral features' of a building and 'long life' (over 25 years) assets.

There is, however, an 'annual investment allowance' (AIA), and expenditure on plant and machinery up to this amount can all be deducted in the year of purchase. The AIA is currently at the unprecedentedly high figure of £500,000.

There are, however, certain restrictions on claiming AIA which must be remembered.

Cessation of trade

Mr Keyl's mistake was to claim AIA (on the purchase of a van) in the year he ceased trading. The fact that the end of his sole trader business occurred because he was transferring it to a company did not matter; it was treated as a cessation of trading and AIA cannot be claimed in that year.

Connected persons

It might be thought Mr Keyl's company could make the claim instead, but unfortunately AIA is also not available where the plant is acquired from a 'connected person'.

Cars

AIA cannot be claimed on cars. A van is not a car (though the exact difference can be difficult to determine in some cases), so were it not for the cessation, Mr Keyl could have claimed AIA on his van.

Trusts

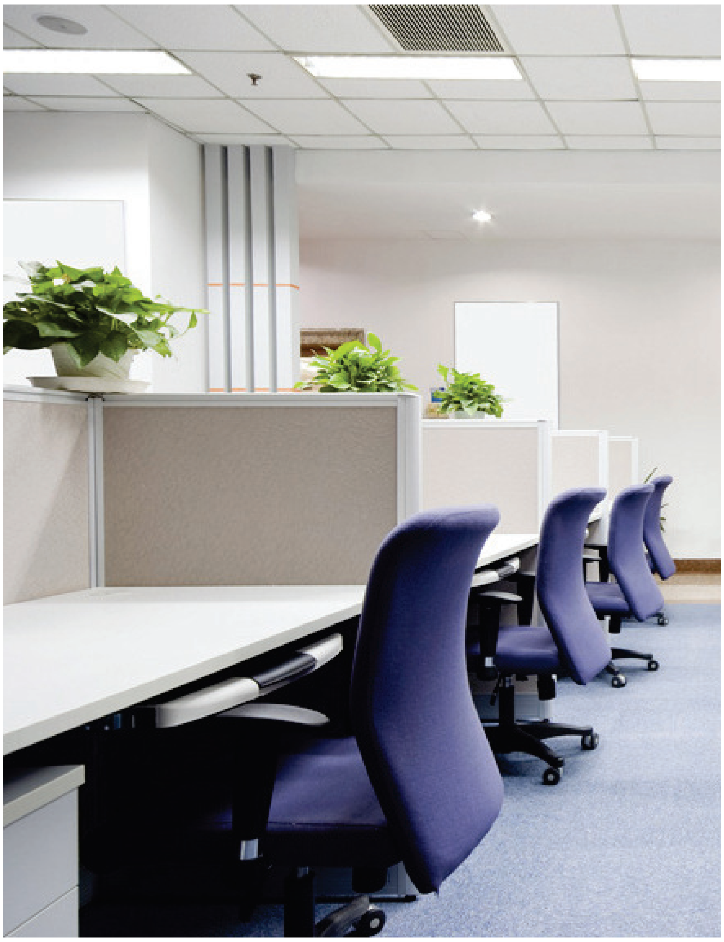
In some cases, a trust may carry on a trade, but it cannot claim AIA because the right to AIA is restricted to individuals, partnerships where all of the members are individuals, and companies.

'Mixed partnerships'

Where a partnership includes a company or a trust, it cannot claim AIA because it is not in any of the three categories described above.

Groups of companies

A group of companies gets one AIA, to be shared among the companies in the group as they wish.



'Related' businesses

Every business that does not fall foul of one of the exclusions above can claim AIA, but in certain cases there is only one AIA available, split between different entities that are 'related' to each other.

This applies to 'related' companies, and to 'related' partnerships or individual traders, but interestingly there is no restriction in a case where a company is 'related' to a non-corporate business. Mr Smith could claim AIA for his trading company Smithco Ltd and another AIA in his own right as a sole trader, even if both businesses carried on the same trade.

A company is 'related' to another company (or an unincorporated business to another unincorporated business) if they are controlled by the same person or persons and they meet either the 'shared premises' or the 'related activities' condition.

'Shared premises' is more or less self-explanatory, but note that plenty of businesses may not have 'premises' as such – simply doing the bookwork at home is not enough to make the home of (say) an electrician who works on building sites his 'premises'.

'Related activities' means that the two activities fall within the same NACE first level classification. This is a set of 17 categories of business and can be found on the website of the Office of National Statistics at http://www.ons.gov.uk/ons/index.html.

Practical Tip:

The AIA is a valuable tax relief, and it is worth taking some trouble to ensure you do not accidentally lose your entitlement to it. In many cases, it may be possible to double up on the AIA by carefully avoiding businesses being 'related' to each other.

Personal Tax

Income From A Family Trust

If you have a family trust with discretionary powers, consider making payments to your children.

Trusts are a complex area and advice should always be sought, but it is possible to utilise the children's tax-free personal allowance in this way.

In fact, these payments can be combined with the pension payments in respect of your children to make a double saving.

Case Study:

Andrew's family has a family trust, and it makes payments net of the trust rate of tax (45%) equivalent to the annual personal allowance of £10,000 gross per annum (2014/15 figures).

The tax of £4,500 paid by the trust is recovered by the children, by making a repayment claim. An amount of £2,880 net (£3,600 gross) is paid into a pension scheme on their behalf, resulting in a further tax advantage of £720 per child.

Property Tax

Restricted Claim

Capital allowances available on assets purchased for use in a property business need not be claimed in full; the amount can be restricted by choice, if appropriate.

This will be relevant if, for example, the owner's total income for the year is less than the personal allowance.

The amount of allowances claimed in any one year can be restricted to bring the profit to the level of the personal allowance, thereby preserving the balance of allowances to be carried forward for future years.

Case Study:

Jane's property business has a main pool written down value brought forward of £80,000. Profit for the year to 31 March 2015 is £18,000; she has no other income.

The tax calculation for 2014/15 is:

Pool balance brought forward	£80,000
Writing down allowance possible at 18%	£14,400
Amount of claim (restricted)	£(8,000)
Balance of allowances carried forward	£72,000
Tax liability calculation: Profit	£18,000
Less writing down allowance claim	£(8,000)
Net profit	£10,000
Personal Allowance 2014/15	£(10,000)
Tax liability	NIL

Business Tax

Insure The Key Person

The success of the business may rest on one individual and insurance (key man insurance) may be taken out to protect against loss of profits resulting from the death, critical illness, accident or injury of that person. This may provide peace of mind.

As an added benefit, the premiums on such a policy are allowable in calculating the profits of a company or a partnership (but not a sole trader) if the sole purpose of taking out the insurance is to meet a loss of trading income arising from the loss of services of a key person, rather than protecting against a capital loss.

Case Study:

Jack and Jill are directors and shareholders in the family company. Jack is responsible for generating the business and Jill undertakes the administration work.

The company takes out a key man insurance policy to protect against loss of profits should Jack be unable to work due to illness or death. The premiums are allowable.

However, had the policy been taken out to protect the value of the shares, the premiums would not be allowable.

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