

# paylesstax

## 2011 autumn edition

### VAT - A Tale of Two Businesses

What happens when two businesses are run from one business premises? Are these businesses one and the same? Can they be counted together for the VAT threshold – this is a very important question because if the businesses are linked then their joint turnover counts towards the turnover threshold for VAT registration.

Take for example a farmer whose wife runs a bed and breakfast from the farmhouse? The HMRC have recently contended that this is one and the same business, whilst the couple involved have vehemently opposed this.

The threshold from **1 April 2011 is £73,000** and should H M Revenue and Customs – (HMRC) contend that the two businesses are linked; **VAT at 20%** would be chargeable on the sales (supplies) of both businesses. In some cases this action may make the businesses unsustainable.

The grounds for HMRC to deem that two businesses are closely bound is based on their financial, economic and organisational links, with the onus laying with the business owners to show that the businesses are independent of each other.

In these times when HMRC are keen to claim as many tax advantages as possible it is important to safeguard your businesses from this potential deemed link by ensuring separate records are kept and bills for shared premises expenses for example electricity, council tax, insurance etc are charged between the two businesses.

Please speak to a member of the team if you are running two businesses from the same premises and have any concerns regarding VAT. The correct treatment could save you passing on a further **20% VAT** to your customers and could save you **£1000's!!!**

### Tax relief on interest on loans secured against buy to let rental properties

Loans are often not used to their full potential when let properties are held as part of the individuals investment portfolio. By restructuring and possible further borrowings it is possible to obtain higher rate tax relief against the borrowings.

Individuals received Tax Relief on their borrowings to purchase their own or main residence from 1969 to April 2000. The relief was initially introduced to encourage home ownership and the building industry in the late 1960's but it was abolished in April 2000 when Gordon Brown described it as a **'middle class perk'**.

For Income Tax purposes, loans used to fund rental properties continue to receive Tax Relief and as this is an expense against the rental income - reducing taxable income at the highest rate –it can equate to up to **50% tax relief!!**



The rules are complex because not all borrowings are allowed and the borrowings do not necessarily need to be secured against the rental property nor do the borrowings need to be used to purchase the property.

The amount borrowed and on which Tax Relief can be given is restricted to the value of the rental property when first let and so there may be a large amount of untapped borrowing capacity within a rental property.

With the property market stagnant at the moment, a loan secured on a rental property could be used to further invest in this area or to simply release the equity. Professional advice would need to be obtained in order to ensure that this was correctly planned for. Our team should be consulted at an early stage to ensure the maximum tax relief is claimed but if the property is generating income and this is taxed at the higher or highest rates of 50%, there is scope to **Pay Less Tax!**



## National Minimum wage increased

From the 1 October 2011:-

- for workers aged 21 years or more: £6.08 per hour
- for workers aged 18 to 20 inclusive: £4.98 per hour
- for workers aged under 18 (but above compulsory school age): £3.68 per hour
- for apprentices aged under 19: £2.60 per hour
- for apprentices aged 19 and over, but in the first year of their apprenticeship: £2.60 per hour.

Make certain your payroll is compliant – Should you have any queries please contact a member of the team.



## New Junior ISA

Following its announcement in the March 2011 Budget, the new Junior ISA will be available from 1 November 2011. A Junior ISA is a new type of children's saving account designed specifically to replace the now defunct Child Trust Funds and it is aimed at providing parents, grandparents and any other person or organisation who wishes to contribute with a simple and tax-free way to save for the child's future.

All individuals, including minors are entitled to their own personal tax allowance. For the year which started on 6 April 2011 this is **£7,475**, so on initial glance this Tax Free opportunity may not look that attractive however when the capital invested is from the child's parents then, for tax purposes interest paid on that capital in excess of £100 is deemed to be that of the parent. Should that parent be an additional or higher rate tax payer this could amount to a significant tax saving which would otherwise be taxed via the parents Self Assessment Tax Return.

The investment can be either a cash investment or a stocks and shares investment with an annual limit of £3,600 being contributed in total to either account or a combination of the two accounts but there can only be the two accounts. The government has not set a cap on the minimum contributions required and it is understood that some providers will accept a minimum balance of £1 for a cash Junior ISA and contributions of £10 per month for a stocks and shares Junior ISA. Contributions to the Junior ISA limits will be fixed at **£3,600 per annum** until April 2013 after which they will start to increase each year in line with the Consumer Price Index.

The accounts are available to children born on or after the 3rd January 2011, or before 1st September 2002 who missed out on the Children's Trust Fund (CTF) however unlike the CTF there is no government contribution. If your child has a CTF then there is no possibility of a Junior ISA nor can you or your child transfer the funds from the Children's Trust Fund into a Junior ISA. So that those with Child Trust Funds don't miss out, the annual contribution limit for Child Trust Funds will increase to £3,600 from November to match the Junior ISA limits.

The growth on the stocks and shares and the interest on the cash is both **capital gains tax and income tax free**. The account is opened by the person with parental responsibility for the child however the child can manage the account from the age of 16. No cash withdrawals are permitted until the child is 18 years of age.

One of the most attractive elements to this tax free savings account is that from age 16 the child can not only have a Junior ISA but can also open an adult ISA and the Junior ISA contributions will not impact upon adult ISA subscription limits. **2 tax free investments for two years!** By default the Junior ISA becomes an adult ISA at the age of 18 at which time withdrawals are then permitted.

## CGT – Who owns the Rental Property

It has long been a fallacy that a married couple/civil partnership owning a joint rental property could establish the proportion of the rental income to suit the tax rates and allowances of the couple. However, this has never been the case.

Property can be owned in two ways - the first method is to own an equal share in the whole property – known as 'Joint Tenants' and the alternative method is to hold an identifiable and separate share in the property for example one party owns 25% and the other owns 75% otherwise known as 'Tenants in Common'

HMRC will normally treat income arising from property jointly held by a married couple/civil partnership, living together, as if it belonged to each in equal shares and tax each on half of the income regardless of actual ownership.

This can create problems where one spouse/partner is a higher or additional rate taxpayer and the other has little or no income.

If incomes are likely to continue at these levels consideration might be given to changing the ownership to 'Tenants in Common' i.e. owning the property in unequal shares so that an election can be made for the lower income spouse or civil partner to use up their personal allowances and take advantage of their lower rates of tax.

For Capital Gains Tax purposes, the transfer of the different proportions between the partners or spouses is free from Capital Gains Tax - the disposing party does so at a no gain/no loss and the receiving party takes on the cost and date of acquisition from their partner.

Once the transfer is completed we can make an election to HM Revenue and Customs to split the property income in line with the beneficial ownership of the property which means that the income reflects the planning undertaken in relation to the income levels from the property.

HM Revenue and Customs will require evidence of the beneficial ownership of the property and in order for this to be unchallenged the transfer must not be an arrangement for the avoidance of tax for example if the spouses / partners were to transfer ownership only to gift back some of the income.

The other consideration must be that once transacted the share of ownership is actual and this may cause problems should the partnership or marriage break down.

If you would like to discuss the potential savings from a transfer of the share of ownership between partners please speak to a member of the team.

## **T** Tip

If one of the spouses or civil partners owns the property outright and the issue is mitigation of Inheritance Tax then please speak to a member of the team as we can help with Tax Planning in this scenario.

## Pension Contributions – Still Tax Efficient?

A great way to reduce taxable income is to contribute to a pension scheme.

There is an annual allowance of £50,000 per year which can be made up of either employer or individual contributions or a combination of both.

If the company is paying the contribution then the payment is made gross and the company pays no **National Insurance Contributions** (NI) on the payment. If the individual pays the contribution then the payment is made net of basic rate tax for example - £100 contribution is made up of £80 from the individual and £20 from HM Revenue and Customs. If you are a higher rate tax payer, you are able to claim a further 20% (for 40% tax payers) or 30% (for 50% tax payers) tax relief. Ask your client manager if you are not certain how we claim this for you.

In the current Tax Year (2011/12) when earnings reach £100,000 you start to lose your personal tax allowances on a £1-£1 basis so the full allowance is lost when earnings reach **£114,950**. If the income can be reduced to below £100,000 using pension contributions, not only is there further 20% tax relief to be claimed on the contribution but the **personal allowances are not lost**, gaining a further **20% tax relief** on that part of the contribution.



If you have had a scheme in place for the last three years ie from 2008/09 onwards then the £50,000 annual allowance can be rolled forward and a total of £200,000 can be paid in the current year – however we need to watch earnings in the years 2009/10 and 2010/11 because if your income was £130,000 or more in those years the annual allowance is reduced to £20,000 per year for those years.

If your spouse is not employed then a maximum of £3,600 can be made as a contribution on their behalf – this is the gross figure, the actual contribution would be £2,880! It may be worth considering employing the spouse, paying them up to the NI threshold and then paying 100% of the salary as contributions – where **it will be tax free** on the company, **tax free** on the individual and because gross contributions are reducers for Tax Credits purposes it would not affect your Tax Credits award!

There is no limit to the amount which can be built up in a pension scheme however there is a limit to the amount the individual can draw from a pension scheme in their lifetime without a tax charge being triggered. This is called the lifetime allowance. For 2011/12 the limit is £1,800,000 but this figure reduces in 2012/13 to £1,500,000. Your Financial Advisor will work with us to ensure that you obtain your maximum lifetime allowance and if you have not yet discussed your pension arrangements with a financial advisor we will be pleased to help you just ask one of the team.

## **T** Tip

Speak to us as soon as you know you plan to invest in a pension or a new item for use in your business, if you make gift aid payments, or pay child care costs, as all of these changes in circumstances can be planned to ensure you don't lose a penny of your Tax Credits entitlement and don't forget to let us check the award because the HMRC figures show 150,000 claims were incorrect in 2008/09 and money was not paid to the rightful individuals.

## Act now before the taxman comes calling...

Recent HM Revenue & Customs (HMRC) campaigns have targeted off-shore investments, medical professions and people working in the plumbing industry. Although the deadlines for these campaigns have now passed, it is still worth making a voluntary tax disclosure before the taxman comes knocking.

HMRC use cutting-edge tools such as "web robot" software to search the internet and find information about specific people and companies enabling them to pinpoint people who have failed to pay the right amount of tax.

By matching a vast amount of HMRC and third party data, HMRC have the facilities to uncover anomalies between such elements as bank interest, property income and lifestyle indicators enabling them to hone in on inconsistencies.

HMRC have already announced the following campaigns and we can expect to see more in the future.

### Overseas Assets

The UK and Swiss governments have signed an agreement whereby money held by UK citizens in secret **Swiss bank accounts** will be **taxed by the Swiss authorities**. Expected to start in 2013, the money will be paid directly to the Treasury, although the account holder's names will not be disclosed.

However, **not content to wait** until 2013, HMRC have announced that, following on from information obtained, via a disgruntled bank employee, they will be contacting 6,000 people with accounts in Switzerland to give them the choice of coming forward and making a full disclosure or risking prosecution.

The UK can also request details of 500 accounts per annum from the Swiss Authorities.

This should serve as due warning that the Swiss deal does not give immunity from prosecution and anyone with any accounts in Switzerland should consider making a full disclosure or face the future possibility of prosecution for tax offences.

The Liechtenstein Disclosure Facility (LDF) is running **until March 2015**. This enables an individual to make a full disclosure, pay over any outstanding tax together with interest and a 10% fixed penalty but free from any threat of prosecution for tax offences.

### Tutors and Coaches

HMRC's sights are now set on those who earn money, either as a main or secondary income, from private tuition and coaching and haven't paid tax on the income. It covers people providing private lessons regardless of whether they have any teaching qualifications and includes coaches such as dancing/fitness/lifestyle.

Those affected will have until **6 January 2012 to notify** HMRC that they plan to make a voluntary tax disclosure and until **31 March 2012 to pay** the outstanding tax, interest and penalties due for the years up to 5 April 2010.

**After 6 January 2012**, when the deadline to notify has passed, HMRC will use data from an extensive range of sources to identify those who have failed to come forward. Those identified face **substantial penalties or even criminal prosecution**.

### And still to come:

Planned to begin in early 2012, a **second Trades campaign** which will give another group of tradespeople the chance to come forward and declare unpaid tax.

**E-marketplaces**. This will cover those who are using e-marketplaces to buy and sell goods as a trade or business and who fail to pay the tax owed. People who only sell a few items and who are not traders are unlikely to be liable to tax and will not be targeted by this campaign.

### Tip

Don't wait for the taxman to come calling. If you have any undeclared income or capital gains, contact us immediately so that we can open negotiations with HMRC who will always look more favourably on a voluntary disclosure.

## We Can Help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.

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