

Take Account

Autumn 2009 | Edition 8



Take a swing?

10th Charity Golf Day

Phipps & Co organised its tenth annual Charity Golf Day at Lydd Golf Club on 17 July 2009. Even in the middle of the recession 12 teams of golfing fanatics were enticed into an enjoyable, if blustery, fundraising day down on the links.

A grand total of £1,000 was raised for St Michaels Hospice towards their ongoing palliative care for cancer sufferers.

If you think you would be interested in playing next year - you can first check out the photos on our website at www.phippsllp.co.uk. Dedicated fanatics and 'Sunday' golfers alike are most welcome, with a full range of handicap levels, and who all enjoy a brilliant day with the proceeds supporting a selected local charity.



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Happy homes?

The press focus on MPs second homes earlier in the year has thrust the capital gains tax (CGT) position on the sale of homes generally into the limelight, so what does tax law actually allow?

First, to be exempt the property must not have been purchased for the sole reason of making a profit and, second, the dwelling must be an individual's only or main residence throughout the period of ownership.

The exemption is for one property per person or married couple (including a registered civil partnership) only; so if another residence is acquired an election can be made as to which property is to qualify and which is not. The election can be made within two years of a change in the number of residences available.

For example in a situation where, on marriage, each party owns his or her own property, an election can be made within two years of the marriage as to which residence is the main qualifying one. As many couples are unaware of the need for an election to be made, they miss the cut off date. In that situation HMRC and not the couple have the right to decide which property is exempt based on the facts presented.

Is it ever possible for two properties to be eligible for exemption?

The answer is potentially yes because where an owner does actually reside in more than

one property for some time during the period of ownership, the last three years of ownership is generally treated as exempt as well as any period of actual occupation as a main residence. In some cases that will mean that the entire gain on both residences is exempt.

Example

Charles has owned a main residence in Leicestershire for the last eight years. Fed up with commuting he buys a flat in central London and elects for this to be his main residence. Exactly five years later he sells his home in Leicestershire. This is exempt for the first eight years as it was his main residence and for the last three years of ownership. So 11/13 of the gain will be exempt from capital gains tax. If, two years later, he sells the London flat and moves elsewhere, the whole of that gain will be exempt.

The main residence exemption can be complex and often causes a good deal of misunderstanding.

This article only deals with one aspect. There are further considerations such as:

- selling off part of the garden;
- restricting the exemption on properties with large grounds;
- using part of the property for another purpose; and
- letting out part/the whole of the property for periods during ownership.

October Oracle

This autumn the month of October is clearly in fashion as 1 October 2009 heralds a number of changes of interest to individuals and businesses alike.

For savers

From 6 October 2009 those aged 50 or over will be able to increase the level of investments in ISAs to £10,200 from the existing £7,200. The increased limit will be available to all from 6 April 2010. The maximum cash investment within the overall limit of £10,200 rises from £3,600 to £5,100.

For employers

It brings an increase to both the National Minimum Wage (NMW) rates and to the maximum wage used for statutory redundancy pay calculations.

The NMW for workers aged 22 and over increases to £5.80 per hour from £5.73. For 18 to 21 year olds it increases to £4.83 from £4.77 per hour and for 16 to 17 year olds increases to £3.57 per hour from £3.53.

The weekly wage limit for calculating statutory redundancy pay is normally increased annually, at the beginning of February. However, as well as the increase which occurred on 1 February 2009, a further rise in the limit from £350 to £380 was announced in the Budget 2009. The increase is to apply from 1 October 2009 instead of 1 February 2010, four months earlier than usual.

For companies

1 October 2009 also represents the final stage of implementation for the Companies Act 2006.

For further information or advice on any of these areas please contact us.

Getting your chips for free

The payment of subsistence expenses is a frequently misunderstood area that affects all sizes and forms of business. Getting it wrong can be costly for both employee and employer.

The first step is to ensure that subsistence costs are attributable to business travel. A critical concept is that such costs are necessary and that additional costs are actually incurred during the course of a journey or whilst at a temporary workplace.

HMRC's own guidance states "Once it is accepted that the employee has incurred allowable subsistence expenses, you do not need to take into account the costs saved as a result of the business travel. For example, if the employee needs to eat in a restaurant while on a business trip you can permit a deduction for the full cost of the meal and should not make any adjustment for the costs saved by not eating at home".

However, many industries, conscious of cost control and to ensure consistency amongst employees, rather than reimburse actual costs prefer to use standard meal allowances in their expense policies and therein lies the potential hazard! Without prior agreement with HMRC such payments are likely to be treated as round sum expense allowances and therefore additional pay. This would

then attract both income tax and National Insurance Contributions (NICs).

So how can we ensure these payments are tax and NIC free?

Earlier this year HMRC introduced an advisory system of benchmark scale rates for subsistence payments. The aim being to give a measure of certainty and consistency between businesses. Employers can use this to make subsistence payments to employees who incur allowable business travel expenses free of tax and NICs.

The advisory system which was implemented on 6 April 2009 covers benchmark scale rates for day subsistence payments. If an employer wishes to pay subsistence to employees who have to stay overnight they can either reimburse the actual cost incurred by the employee or agree a tailored scale rate to cover meals and other expenses in a dispensation with HMRC.

What conditions apply?

The key qualifying conditions are:

- the travel must be in the performance of an employee's duties or to a temporary place of work;
- the employee should be absent from his normal place of work or home for a

continuous period in excess of five or ten hours; and

- the employee should have incurred a cost on a meal (food and drink) after starting the journey so if an employee does not buy a meal or takes a packed lunch from home there is no entitlement to a tax and NIC free payment.

If a business wants to pay scale rates to its employees it can only do so tax and NIC free if it has a HMRC dispensation. We can assist you in making such an application or when relevant, reviewing your existing dispensation arrangements.

The benchmark rates

Qualifying travel period	Amount (up to)
At least five hours – the one meal rate	£5
At least ten hours – the one or more meal rate	£10

There are also breakfast and late evening meal rates for use in exceptional circumstances only. These are not intended for employees with regular early or late work patterns and conditions are specified.

Last chance saloon

HMRC have now published details of the new disclosure initiative, announced provisionally in the Budget 2009. This 'New Disclosure Opportunity' (NDO) is aimed at taxpayers who have undeclared income and gains from offshore accounts and assets. An incentive of capping any additional penalty at 10% is offered in exchange for full voluntary disclosure and settlement of any tax liabilities. In fact no penalty will apply where the outstanding tax does not exceed £1000.

A previous opportunity in 2007 that allowed taxpayers to settle tax arrears on undeclared offshore income also attracted an additional penalty of only 10%. At the time of that amnesty, HMRC wrote to certain taxpayers offering the 10% rate as a result of information they had managed to obtain about account holders of offshore bank accounts with five of the High Street banks (Lloyds TSB, HBOS, HSBC, Barclays and RBS). The potential threat of being found out prompted tens of thousands of individuals to disclose with a resulting yield of £400m to HMRC.

So why a second opportunity?

HMRC and other foreign tax authorities have worked hard over the last few years to increase co-operation in an attempt to further reduce tax evasion. It is reported that HMRC now have authority to seek information about offshore assets and accounts from a much wider range and volume of financial institutions (other banks, building societies and brokers) than previously. This increases the odds in their favour of identifying undeclared income and gains.

Higher penalties

The 10% penalty restriction will not apply to those to whom either HMRC or the banks wrote in 2007 and who chose not to disclose at that time. Instead those individuals who now make a full disclosure will attract a penalty of 20%.

If a taxpayer does not disclose it is clear that HMRC intend to use the full extent of their enhanced powers to identify defaulters and to vigorously pursue all outstanding liabilities. In such cases the minimum penalty level is expected to be 30% rising potentially to 100%.

The NDO will run from 1 September 2009 until 12 March 2010. However taxpayers need to notify their intention to disclose by 30 November 2009.

The actual disclosure must then be submitted:

- on paper between 1 September 2009 and 31 January 2010 or
- electronically from 1 October 2009 to 12 March 2010.

Terminal tax advances...

Sitting at your computer terminal to do your online tax filing will become an everyday feature for all sizes and forms of business over the next two to three years. Certain returns made by larger businesses already have a compulsory online filing requirement but this is gradually being extended across the taxes to all businesses.

PAYE

The online filing rules here depend on whether the business has more or less than 50 employees. A business with more than 50 employees is already filing the Employer Annual Return online, (the forms P35 and P14s). In addition there is a requirement to file certain 'in year forms' online - such as the relevant parts of a P45 or a P46. These forms are used when an employee leaves or starts.

For a business with fewer than 50 employees, the end of 2009/10 will mean compulsory filing for the first time of the Employer Annual Return. Compulsory online filing of the 'in year forms' will then apply from 6 April 2011.

VAT

If turnover is more than £100,000, you will have to file your VAT return online and pay electronically for accounting periods that start on or after 1 April 2010. This will also apply for any new VAT registrations on or after 1 April 2010, regardless of the turnover.

Corporation Tax

From 1 April 2011, for any accounting period ending after 31 March 2010, all companies will be required to file the company tax return (including supporting documentation) online.

Whilst the change is some way away, it's a good idea to consider whether your software will be able to handle the new Extensible Business Reporting Language (XBRL) data format, particularly if you are thinking of investing in new software in the near future.

If you would like further information on how we can assist with online filing, do contact us.

Out with the old... in with the new

If your business van reminds you of the era of 'Stephie and Son' or 'Only Fools and Horses' maybe it's time to take advantage of a government backed incentive scheme, which is aimed at trading in old vehicles for new lower emission ones.

The scheme is available for personal and business purchases and applies to cars as well as vans. The incentive comes in the form of a £2,000 subsidy - £1,000 per vehicle from the Department for Business, Innovation and Skills, matched by a further £1,000 subsidy from the manufacturer. No subsidy is available at all if the manufacturer has not joined the scheme but as 41 have joined there is plenty of choice. Some manufacturers and dealers are even offering an additional subsidy or discount.

Are you eligible?

The vehicle being traded in must:

- be a car or small van weighing up to 3.5 tonnes
- have been registered in the UK on or before 31 August 1999
- be registered with the DVLA or DVA in the business's or individual's name
- have been registered to you or the business continuously for 12 calendar months before the order date of the new vehicle
- have a UK address on the registration certificate (V5C)
- have a current MOT test certificate before the date of order for the new vehicle (or within 14 days of expiry at the time of order)
- have a current tax disc when the order for the new vehicle is placed (or within 14 days of expiry at the time of order)
- be insured when the order for the new vehicle is placed.

The new vehicle you want to buy must be:

- a car or small van weighing up to 3.5 tonnes
- first registered in the UK on or after the 18 May 2009
- declared new at first registration in the UK with no former keepers
- a UK specification vehicle.

When trading in your old vehicle for a new vehicle the registered keeper for both vehicles must be the same.

Prompt action is recommended to take advantage before the £300 million of funds set aside run out! Even if the funds last, they are only available until 28 February 2010. Please contact us if you would like information on the VAT and capital allowance aspects of any proposed new purchases.

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Practice news

Congratulations

Lisa Hardy (pictured left) at the Tenterden office passed her final exams this summer and has been awarded full membership of AAT, so is now able to proudly add the letters MAAT to her name.



Also, Hannah Maynard of the Rye office was thrilled to pass her AAT Intermediate exam and is now studying for her Technician Level with exams in December and then June of next year.

Fundraising help from HMRC!

Gift Aid is a way for charities or Community Amateur Sports Clubs (CASCs) to increase the value of monetary gifts from UK taxpayers by claiming back the basic rate tax paid by the donor. It can increase the value of donations by a quarter at no extra cost to the donor.

Gift Aid is worth nearly £1 billion a year to charities and their donors.

HMRC Charities have a 'Gift Aid Toolkit' on CD-ROM to help your charity or CASC run an effective Gift Aid scheme. The toolkit offers a beginner's guide to the Gift Aid scheme and provides a step-by-step guide to help you:

- apply to HMRC to make Gift Aid repayment claims
- understand the rules of the Gift Aid scheme
- fill in the Gift Aid repayment forms
- understand what records you need to keep.

David Richardson Director of Charities, Assets and Residence at HMRC said:

"I hope that the toolkit will encourage more charities - especially the smaller ones - to take up Gift Aid and boost their income. We have worked with charities to develop the toolkit which should reduce administrative burdens. Our aim is to make Gift Aid easy for all charities and Community Amateur Sports Clubs by providing the tools and guidance to help them at every step".

The toolkit can be obtained by calling HMRC Charities on **08453 020 203** or emailing **charities@hmrc.gov.uk**