Compass Accountants

Newsletter - November/December 16

Helping you to shape your future… not just accounting for your past…

TaxAngles - For proactive tax planning

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Disincorporation relief

Recent changes to the tax treatment of dividends may lead people to question whether it may be better to run their business as an unincorporated entity, such as a sole trader or partnership, rather than as a company.

For those thinking of disincorporating, an element of relief is available for a limited period.

Nature of the relief

Disincorporation relief is available when a company transfers certain assets to its shareholders who then continue to run the business in an unincorporated form. In the absence of the relief, transfers between the company and its shareholders would normally be treated as transfers between connected persons so that tax is calculated by reference to the market value regardless of the amount actually paid. The relief allows qualifying assets to be transferred at the lower of the cost and market value (other than goodwill amortised under the intangibles regime, which is transferred at the lower of the tax written down value and the market value). The transfer value becomes the acquirer's base cost for CGT purposes.

Tip

The relief saves corporation tax on chargeable gains on disincorporation.

Trap

The relief defers rather than saves cost, as it lowers the recipient's base cost.

Qualifying assets

The relief only applies in relation to qualifying assets, which are land and goodwill. Other assets, such as stock, debtors, etc. are outside the scope of the relief.

Conditions

Availability of the relief is contingent on the following conditions being met:

- the business is transferred as a going concern;
- all assets (or all assets except cash) are transferred;
- the total market value of qualifying assets (land and goodwill) at the time of the transfer must be less than £100,000;
- the shareholders to whom the business is transferred must be individuals;
- the shareholders must have held shares in the company for 12 months before the transfer.

Transfer window

Relief is only available if the transfer takes place in the transfer window, which runs from 1 April 2013 to 31 March 2018.

Claiming relief

The relief must be claimed jointly by the company and all the shareholders who are receiving assets. .

Quote of the month…

"You never change things by fighting the existing reality. To change something, build a new model that makes the existing model obsolete". - R Buckminster Fuller - American Architect and Inventor.

Using loan trusts

While giving away assets and hoping to live for seven years afterwards can take them out of the taxman's reach for inheritance tax purposes, the downside is that you lose the right to benefit from those assets. Further, any attempt to give something away but continue to benefit from it is ineffective from a tax planning perspective as it is caught by the gifts with reservation rules.

However, for those who want to engage in a bit of inheritance tax planning but cannot afford to give away their assets, a loan trust offers something of a half-way house.

What is a loan trust?

As the name suggests, a loan trust involves a loan and a trust. A trust is set up, which can be an absolute trust or a discretionary trust, and trustees are appointed. The settlor can also be a trustee.

The settlor makes a loan to the trust. The loan is invested in an investment bond with the potential for growth. The original loan is repayable, usually in regular instalments.

IHT advantages

Although the original loan remains part of the settlor's estate, any growth is outside of the estate.

Other advantages

The settlor retains his original loan, which is repayable on demand. Repayment can be made in regular instalments, as a single sum, or as occasional repayments. Regular repayments can be agreed with the trustees at the time that the loan trust is set up.

Tip

The repayments can be made `tax-free' over 20 years (5% of original amount) by partial surrender of the policy.

Absolute v discretionary trust

Where an absolute trust is used, the beneficiaries and their share of the fund must be specified when the trust is created. A discretionary trust provides the flexibility to change the beneficiaries and their share.

Trap

Discretionary trusts are subject to the tax charges, and these should be taken into account.

Tip

The trust can include a clause to waive repayment if the loan has not been fully repaid on the death of the settlor, so that the trustees can pay the balance out for the benefit of the beneficiaries.

Disadvantages

A loan trust is not for everyone. The settlor loses the right to any growth arising from the investment. Also, investments can go down and financial advice should be sought. If the settlor can afford to make a gift of the capital, this is a better option (from an IHT viewpoint) than using a loan trust. Any loan which has not been repaid at the time of the settlor's death forms part of his estate.

The benefit to the settlor also runs out once the loan has been fully repaid and his income source ceases.

Mobile phones – a tax-free benefit

Employers often provide employees with the use of a mobile phone and, structured correctly, they can be a valuable tax-free benefit. But there are pitfalls that may trap the unwary.

The exemption

An employer can provide an employee with a mobile phone without triggering a tax or National Insurance liability, provided that certain conditions are met.

The first condition is that there is no transfer of property – the mobile phone remains the property of the employer. If the employer gives a mobile phone to an employee a tax charge would arise as this would constitute a transfer of an asset.

The next condition is that the exemption only applies in respect of the provision of one phone per employee. This limit includes phones provided to members of the employee's family (unless they too are an employee and are provided with a phone in their own right).

The final condition is that the contract must be between the employer and the mobile phone provider. This is important as if the contract is between the employee and the phone provider the exemption does not apply.

Smartphones included

The good news is that the exemption is not limited to basic mobile phones and includes smartphones. However, HMRC do warn that 'this is an area of rapidly changing technology and it is not possible to be certain about the application of the definition of "mobile phone'' to future or new forms of smartphone'.

Mobile phones – a tax-free benefit (continued)

Paying an employee's bill

As noted above, for the exemption to apply, the contract must be between the employer and the phone provider. This is important as the exemption is not available if the contract is between the employee and the phone provider and the employer either pays the bill on the employee's behalf or reimburses the employee. While the end result in each case is that the employer meets the cost of the employee's mobile phone, the tax consequences are very different.

- If the employer provides an employee with one mobile phone for his or her use, there is no tax or NIC to pay.
- If the employer pays the bill on the employee's behalf, this constitutes a pecuniary liability and the employer must report the benefit on the employee's P11D and deduct Class 1 NICs via the payroll.
- If the employer reimburses the cost of the employee's mobile phone, the employer must deduct tax under PAYE and Class 1 NICs through the payroll.

Trap

All is not equal when it comes to meeting the cost of an employee's mobile phone – ensure that the contract is between the employer and the phone provider to take advantage of the available exemption.

Salary sacrifice

While in the past, the use of a salary sacrifice arrangement has been a useful way to take advantage of the exemption. However, this approach is time-limited as under proposals set out in a consultation document the exemption will be lost from 6 April 2017 where mobile phones are made available under salary sacrifice arrangements.

Research and Development costs

Investing in research and development can be a costly business with no guarantee of recovering the costs. However, some help is at hand in the form of corporation tax relief.
The relief that is available depends on whether the company is a small or medium-sized enterprise (SME) or a large company.

SME scheme

The SME scheme is open to companies that have less than 500 employees and whose turnover is less than €100 million or whose balance sheet is under €80 million. A company is only eligible to claim relief under the SME if it is a going concern and not in administration or liquidation at the time that the claim in made.

Rate of relief

Under the SME scheme, companies can deduct 230% of their R and D expenditure when computing their profits for corporation tax purposes. This means that for every £100 of qualifying R & D expenditure, the company can deduct £230.

Tip

R & D tax relief is very generous and companies should claim if eligible.

Example

Research Ltd is an SME. In the year to 31 December 2016 it has turnover of £500,000. It incurs R and D expenditure of £100,000 and other expenses of £80,000.

It is eligible for R and D tax relief.

If the company fails to claim the relief, its taxable profit would be £320,000 and the associated corporation tax liability would be £64,000.

However, by claiming R and D tax relief, the company is able to claim a further deduction of £130,000 (£100,000 @ 130%), reducing the taxable profits to £190,000 and the corporation tax bill to £38,000. Making the claim saves tax of £26,000.

Tip

R & D tax relief is very generous and companies should claim if eligible

Losses

If, after making a claim for R and D tax relief, the company makes a loss, the loss can be carried forward or backwards as usual.

However, the company also has the option to convert the qualifying R and D expenditure into R and D tax credits.

R & D tax credits

R and D tax credits enable companies that cannot utilise the R and D tax relief because they have not made a profit to convert their R and D expenditure into a cash sum. The tax credit is paid at a rate of 14.5% of the enhanced amount (i.e. 230% of the actual expenditure). This is equivalent to a repayment of 33.35% of the amount spent on qualifying R and D. In the above example, if the company was loss making it would be able to claim a cash sum of £33,350 ((£100,000 x 230%) x 14.5%).

Tip
Loss making companies can convert the relief into a cash sum.

Qualifying R & D

The definition of R & D is wider and occurs where a company is engaged in a project that is seeking to make an advance to science or technology through the resolution of scientific or technological uncertainty.

Trap

It will not always be obvious whether a company qualifies for relief, leading to missed opportunities for relief.

Tip

HMRC offer an advance assurance scheme so companies can check in advance whether their project qualifies.

Claiming

The relief must be claimed within two years of the end of the accounting period to which it relates.

Keeping the Christmas party tax-free

The Christmas party is an annual tradition for many companies, but the frivolities would be somewhat reduced if the employees are left with a tax bill as a reminder of the evening. So what can be done to ensure that the Christmas party remains tax-free?

Keep it simple

The taxman does have some Christmas cheer and the statute books contains a tax exemption for annual parties and functions. However, there are limits to the extent of the taxman's goodwill. The exemption is only available for modest functions where the cost per head is not more than £150. The sting in the tail is that if this figure is exceeded, even by one measly pound, the whole amount – not just the excess over £150 – is taxable.

Don't forget guests

The crucial figure is the cost per head. This is not the same as the cost per employee. Fortunately, guests are included in working out the all-important cost per head figure. This is the total cost of the function (including any transport or accommodation that is also provided) divided by the number of attendees (employees plus guests). So, for example, the cost per head of a function costing £9,250, which is attended by 40 employees and 27 guests is £137.91 (£9,250 divided by 67). This would fall within the tax-free limit.

Trap

If the cost per head figure exceeds £150 and the employee has bought a guest, the cash equivalent of the benefit is the cost of the employee and the employee's guest attending. For example, if a company throws a lavish party costing £300 per head and an employee brings a guest, the cash equivalent of the benefit is £600 (employee plus guest) and the associated tax bill for a higher rate taxpayer is £240 (£600 @ 40%).

More than one function

The £150 per head limit can apply to more than one function, but a function is only tax-free if the whole cost per head figure falls within the available limit. For example, if a company has three functions a year costing £100 per head, £40 per head and £20 per head, the exemption could be utilised to cover the functions costing £100 per head and £40 per head.

Trap

The remaining £10 cannot be used to partially offset the cost of the £20 per head function – a function is either fully exempt or fully taxable.

Tip

If functions costing less than £50 per head fall outside the scope of the annual party exemption, they can still be provided tax free by using the trivial benefits exemption that applies for 2016/17 onwards.

All inclusive

The exemption is also conditional on the event being open to all employees generally or all those at a particular location. Select little gatherings for the favoured few do not cut it.

Picking up the tab

If the party cannot be provided within the terms of the exemption, the employer could consider meeting the associated tax liability by means of a PAYE Settlement Agreement so that the employees can enjoy the event tax-free. Where this route is taken, Class 1B NICs will also be payable.

Hiring Smart, Smart Hiring: Four Key Steps to Successful Recruitment

As the economic climate improves, employers are again thinking about increasing staff. However, recruiting the wrong person can lead to a wide range of problems and costs for an employer. The average cost of recruiting an individual ranges from £3,000 to £8,500, not accounting for the cost of training. Hiring the wrong person can be expensive.

Some simple hiring smart steps can go a long way to ensure you avoid this and get the right people. For SMEs, getting it right is crucial.

What can you do: improving the effectiveness of recruitment?

There are four key steps:

- The key thing and first step SME's – and some bigger companies – commonly fail to do is to identify exactly what type of person is needed for the job or, to put it another way, what type of contribution they expect a recruit to make. This includes knowledge, skills and experience but also the personal characteristics (e.g. initiative) and motivation a recruit brings. Sounds simple, but have you ever recruited someone you wish you hadn't? Skills without motivation result in low morale and commitment; motivation without skills can lead to disaster.
- The second important thing is to be professional in finding them. This requires going to the appropriate sources of likely recruits and communicating in the right way to attract them. We now live in the online recruitment world where it is easy to advertise jobs and attract applicants. However, there are many other sources which are as, if not more, discerning depending on what type of person is required. If agencies are used, ensure you manage them rather than being driven by them.
- The third step is interviewing effectively. Various techniques and approaches increase significantly the interviewers understanding of the candidate's personal qualities, motivation and skills and chances of successfully determining how they will perform a job.
- The fourth step is to employee them properly. There are three parts to this:

  - a bespoke contract of employment covering the key aspects of the employment and managing the key risks to the business;
  - effective induction, covering all the basic information needed but also important relationships and cultural aspects of working for the organisation;
  - clear and clearly communicated performance goals or targets with review periods during the first year so you know whether they are performing on not.

To summarise, with the right process, hiring smart and improving the quality of your recruits is definitely achievable.

Client Focus - Civic Leaders visit for APR Powder Coatings

Last month, we were honoured to join our client, APR Powder Coatings in Waterlooville, for a Civic Visit, where 20 Civic Leaders from across Hampshire came to see their new facilities.

The Civic Party visited APR as a part of a tour of exemplar businesses in the Havant and Waterlooville region led by Mayor of Havant Councillor Faith Ponsonby.

The Mayor of Havant, who came to be familiar with APR Powder Coatings when she attended the grand opening of the new site, asked owner Jim Merriott to lead her Civic leader associates on a tour of APR, whilst demonstrating the size of the ovens and specialist equipment.

Following APR's recent relocation, expansion and its development of the largest independent oven on the South coast, the company has seen a huge increase in business, whilst almost doubling its workforce.

APR had already developed a strong foothold in the industry, specifically with heavy goods vehicles and trailer manufacturers. With its site expansion, and increase in large specialist ovens, the powder coating business has now ventured into a larger volume of work, specifically within the marine industry.

The company has also introduced Quality Control Procedures, employing staff and putting processes in place that guarantee all APR's work consistently reaches the highest standard.

Mayor of Havant, Councillor Faith Ponsonby said, "I wanted to bring fellow Civic Leaders from around the county to see exactly what APR are doing by bringing employment to the area and by providing a high quality service for boat building and manufacturers in the Southern region."

Jeff Walton of Compass Accountants attended the event and said, "It's a huge pleasure to see APR experience such recognition for the rapid growth and great success they have worked hard for to be a showcase business for a Civic Visit is a fantastic achievement!"

Compass Accountants raises £2,000 on Charity Quiz Night

The attendance of 26 local businesses helps raise funds for Motiv8 and Enable Me

Compass Accountants is pleased to announce that a total of £2,000 was raised for charities following our quiz night and dinner for local businesses in the Hampshire region. The event raised funds for Motiv8 the charity based in Portsmouth that works to improve the life chances of young people and Enable Me the charity that works to help businesses, schools and Universities across the South with disability awareness training.

The Quiz Night took place at Portsmouth Football Club, and included a dinner, games and a raffle, helping to raise funds for both charities. 26 different local businesses and organisations joined Compass on the night.

Chris Jay, Executive Chairman of the charity Enable Me explains, “It was a great honour to have been selected as one of the charities Compass raised funds for. We are very grateful that disability awareness is something Compass are keen to support. Plus they know how to organise a fantastic evening! A great night was had by all.”

Martin Wood, the Finance Director with Motiv8 South Ltd, was also present and said, “It was both a privilege and a pleasure to partner with Compass Accountants at what proved to be a really successful, well managed, well-run, most enjoyable Charity Quiz Night. The event generated an amazing donation of £1,000 for Motiv8 which will enable us to continue to provide life chances for some of the most vulnerable and disadvantaged young people and families in the communities that we serve.”

Each business attending entered a team of six players, with a total of 26 teams competing. The winning team on the night were Portsmouth based, HW Conveyancing Searches.

Stuart Lawrance, Director of Compass Accountants said, “The quiz has been a great success, not only as a means of raising funds for two very important charities but also in bringing together clients and local businesses allowing them to let their hair down and enjoy the night!”

Tax Diary
November/December 2016

1 November 2016	Due date for Corporation Tax for years ended 31 January 2016.
19 November 2016	PAYE and NIC deductions due for month ended 5 November 2016. (If you pay your tax electronically the due date is 22 November 2016)
19 November 2016	Filing deadline for the CIS300 monthly return for the month ended 5 November 2016.
19 November 2016	Due date for CIS tax deducted for the month ended 5 November 2016.
1 December 2016	Due date for Corporation Tax for years ended 29 February 2016.
19 December 2016	PAYE and NIC deductions due for month ended 5 December 2016. (If you pay your tax electronically the due date is 22 December 2016)
19 December 2016	Filing deadline for the CIS300 monthly return for the month ended 5 December 2016.
19 December 2016	Due date for CIS tax deducted for the month ended 5 December 2016.
30 December 2016	Deadline for filing 2015-16 Self-Assessment online to include claim for under payments (under £3,000) to be collected via tax code in 2017.

Contact us

For further information on any of the stories in this month’s newsletter, or for any other matter that Compass Accountants can assist you with, please contact us on 01329 844145.

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