COMPASS

ACCOUNTANTS

TAX ANGLES FOR PROACTIVE PLANNING

Newsletter - October 2019

In this month's edition…

Worthless assets and negligible value claims

Where an asset has been lost or destroyed or the value of the asset has become negligible, it may be possible to take advantage of an allowable loss for capital gains tax purposes. It should be noted, however, that the loss will only be an allowable loss if any gain on the disposal of the asset would have been a chargeable gain.

A distinction is drawn between assets that have ceased to exist and those that have become of negligible value.

Assets that have been lost or destroyed

The entire loss, destruction, dissipation or extinction of an asset is treated as a disposal of that asset, regardless of whether or not any compensation is received. The resulting loss is allowable for capital gains tax purposes. If any compensation is received, this is treated as proceeds from the disposal.

Negligible value claim

If the asset still exists but has become of negligible value, as long as one of two conditions – A or B – is met, a negligible value claim can be made by the owner of the asset.

The legislation does not define 'negligible' but HMRC take the view that it means that is worth 'next to nothing'.

Condition A is that the asset has become of negligible value while still owned by the person.

Condition B is that:

- the disposal by which the person acquired the asset was a no gain/no loss disposal (as is the case between spouses and civil partners)
- at the time of that disposal, the asset was of negligible value
- between the time when the asset became of negligible value and the disposal by which the person acquired it, any other disposal of the asset was on a no gain/no loss basis

Asset must still exist

For a negligible value claim to succeed, the asset must exist when the claim is made. If the asset has ceased to exist, for capital gains tax purposes there has been an actual disposal of the asset (as outlined above in relation to assets lost or destroyed).

No time limit

There is no time limit by which a negligible value claim must be made. However, the asset must be of negligible value at the date of the claim. The claimant must be able to demonstrate that the asset became of negligible value while owned by them (or where acquired from a spouse or civil partner in a no gain/no loss disposal, while owned by their spouse or civil partner). Evidence should be retained to support the claim.

Effect of a successful claim

A successful negligible claim gives rise to a deemed disposal of the asset, with the asset immediately being reacquired for the amount specified in the claim. The loss on the deemed disposal is an allowable loss, provided that any gain that had arisen on the disposal of the asset had been an allowable loss. It should be noted that the allowable loss arises from the deemed disposal rather than from the negligible value claim itself.

In certain circumstances where the claim relates to qualifying shares, the loss can be set against income.

Calculating the Class 4 NIC liability

The self-employed pay two classes of National Insurance contributions – Class 2 and Class 4.
Class 2 contributions are weekly flat rate contributions which provide the mechanism by which the self-employed build up their entitlement to the state pension and certain contributory benefits. By contrast, Class 4 contributions are based on profits from the self-employment and operate more like a tax in that they do not confer any benefit or pension entitlement.

Nature of Class 4 contributions
Class 4 National Insurance contributions are payable by self-employed earners aged 16 or over and below state pension age. The liability is triggered once profits from the self-employment reach the lower profits limit, set at £8,632 for 2019/20. This is aligned with the primary and secondary thresholds for Class 1 National Insurance purposes.

Class 4 contributions are payable at the main rate on profits between the lower profits limit and the upper profits limit and at the additional rate on profits in excess of the upper profits limit. For 2019/20, the upper profits limit is set at £50,000, aligning with both the upper earnings limit for Class 1 National Insurance purposes and the rate at which higher rate tax becomes payable.

The main Class 4 rate is set at 9% for 2019/20 and the additional Class 4 rate is set at 2%.

Example 1
John is self-employed as a personal trainer. In 2019/20 his profits from self-employment are £7,250. As his profits are below the lower profits limit, he does not need to pay any Class 4 National Insurance contributions for 2019/20.

However, as his profits exceed the small profits limit of £6,365 for Class 2 National Insurance purposes, he must pay weekly Class 2 contributions of £3 per week.

Example 2
Jane is self-employed as an interior designer. In 2019/20 her profits from self-employment are £32,000. She must pay Class 4 National Insurance contributions on her profits to the extent that they exceed the lower profits limit for 2019/20 of £8,632.
Her Class 4 National Insurance liability is as follows:
9% (£32,000 - £8,632) = £2,103.12

Jane must also pay Class 2 contributions of £3 per week.

Example 3
Jackie is a self-employed accountant. For 2019/20 her profits from self-employment are £77,000. She must pay Class 4 National Insurance contributions on her profits to the extent that they exceed the lower profits limit for 2019/20 of £8,632.

Her Class 4 National Insurance liability is as follows:
(9% (£50,000 - £8,632)) + (2% (£77,000 - £50,000)) = £4,263.12

Jackie must also pay Class 2 contributions of £3 per week.

Paying the Class 4 National Insurance liability
Class 4 National Insurance contributions are payable with tax under the self-assessment system. The liability must be paid by 31 January after the end of the tax year to which it relates – so Class 4 National Insurance contributions for 2019/20 must be paid by 31 January 2021.

Unlike Class 2 contributions, Class 4 contributions are taken into account in computing payments on account. Payments on account must be made where the previous year's tax and Class 4 National Insurance liability was £1,000 or more unless at least 80% of the tax due for that year was collected at source.

Each payment on account is 50% of the previous year's liability. Payments on account must be made on 31 January in the tax year and on 31 January after the tax year, with any remaining liability (for example where current year's bill is higher than the previous year's) being paid by 31 January after the end of the tax year.

Capital gains tax and chattels

For capital gains tax purposes, not all chattels are equal. In some cases, it is possible to realise a profit on the disposal of a chattel and enjoy that profit tax free, whereas in other cases, capital gains tax must be paid. It all depends on whether the chattel is a wasting chattel or a non-wasting chattel, and where it falls in the latter camp, the amount of the disposal proceeds.

What is a chattel?
The word 'chattel' is a legal term that means an item of tangible movable property. This covers personal possessions, including items of household furniture, paintings and antiques, cars, motorcycles. Items of plant and machinery which are not fixed to a building are also chattels.

Exemption for cars
Private cars and other passenger vehicles are exempt from capital gains tax.

Wasting assets
A wasting asset is an asset with a predictable life of 50 years or less. Certain chattels are always treated as wasting assets, such as plant or machinery.

A gain or loss on a disposal of a wasting chattel is exempt from capital gains tax unless capital allowances have or could have been claimed on the asset. Capital gains tax also applies if a chattel with a predictable life of more than 50 years is loaned to a business which uses it as plant.

Non-wasting chattels
Chattels with a predictable life of more than 50 years are non-wasting chattels. This would include paintings and jewellery.

The capital gains tax position depends on the sale proceeds.

Chattels exemption – proceeds £6,000 or less
An exemption - the chattels exemptions – applies if a gain arises on the disposal of a chattel and the disposal proceeds do not exceed £6,000.

Example 1
Max purchases a painting from an unknown artist for £300. The artist becomes popular and Max sells the painting for £5,000, realising a gain of £4,700.
As the disposal proceeds are less than £6,000, the chattels exemption applies, and the gain is exempt from capital gains tax.

Chattels exemption – proceeds more than £6,000
Where the proceeds are more than £6,000, the gain is reduced by five-thirds of the difference between the amount of the consideration and £6,000.
Where the disposal proceeds are more than £15,000, the maximum gain will exceed the actual gain, so the relief is not in point.

Example 2
Ruby acquires an antique brooch for £3,000. It becomes a collectible item and she sells it for £10,000. The maximum chargeable gain is 5/3 (£10,000 - £6,000) = £6,667

The actual gain is £7,000. As this exceeds the maximum permitted gain, the chargeable gain is £6,667.

Losses
In the same way that the exemption operates to reduce the chargeable gain, it also caps the allowable loss. If a loss arises and the consideration on disposal is less than £6,000, it is deemed to be £6,000 for the purposes of computing the loss.

Example 3
Lola buys a painting for £7,000 which turns out to be a fake. She is able to sell it for £100, realising an actual loss of £6,900.

However, in computing the allowable loss for capital gains tax purposes, the consideration is deemed to be £6,000. The allowable loss is therefore £1,000 (£6,000 - £7,000) rather than £6,900.

Sets of chattels
Special rules apply to sets of chattels. This is to prevent people from artificially splitting a set worth more than £6,000 and selling each item separately to the same person for less than £6,000 each to benefit from the chattels exemption. The anti-avoidance provisions work to treat the set as a single asset in respect of which only one £6,000 limit is allowed.

What is an EORI number and who needs one?

An economic operator registration and identification (EORI) number will be needed for UK businesses to be able to continue to trade with the EU after the UK leaves the EU.

If there is a no-deal Brexit
In the event that the UK leaves the EU without a deal, an EORI number that starts with GB will be needed to move goods in and out of the UK.

An EORI number is not needed if goods are only moved between Northern Ireland and Ireland. However, one is required for imports and exports that move directly between Ireland and Great Britain without going through Northern Ireland.

A business that already has an EORI number starting with GB can continue to use it. It will be 12 digits long and include the VAT number where the business is registered for VAT.

VAT-registered businesses
Where a business is registered for VAT, HMRC send out EORI numbers automatically. It is advisable to keep the letter and a separate note of the number.

Businesses not registered for VAT
Businesses that are not registered for VAT will not receive an EORI number automatically. They will therefore need to apply for one if they wish to continue to trade with the EU post-Brexit.

This is a simple process and can be done online on the Gov.uk website (see www.gov.uk/eori). Applicants will usually receive the number immediately; although it may take up to five working days if HMRC need to undertake more checks.

Forgotten or misplaced EORI numbers
A business which has lost or misplaced its EORI number can contact the EORI helpline online using the contact form on the Gov.uk website at www.gov.uk/eori.

EU EORI number
A business that wishes to trade with an EU country will also need an EU EORI number starting with the country code of the country that they wish to trade with. This should be obtained from the Customs authority of the EU country that the business will first trade with post Brexit.

Dying without making a will – who gets what

The best way to ensure that your estate is passed on in accordance with your wishes is to make a will. However, even with the best of intentions, it may happen that someone dies without making a will, particularly where the death was sudden and unexpected.

Where there is no will, the estate is divided up in accordance with the rules of intestacy. It is sensible to know what these are. Where the rules will give an outcome which is quite different to the desired one, a will should be made without delay.

Married couples and civil partners
Married couple and civil partners inherit under the intestacy rules if they are still married at the time of death. Spouses and partners who have separated but not divorced or dissolved their partnership can also inherit under the intestacy rules.

Where there are surviving children, grandchildren or great grandchildren and the estate is worth more than £250,000, the partner will inherit:

- all personal property and belongings of the deceased
- the first £250,000 of the estate
- half of the remaining estate

If there are no surviving children, grandchildren or great grandchildren, the partner will inherit all the personal property and belongings of the deceased and the whole of the estate with interest from the date of death.

Children
If there is no surviving spouse or civil partner, the children will inherit the whole estate, divided equally between them where there are two or more children.

If there is a surviving spouse or civil partner, the children will only inherit if the estate is worth more than £250,000. The children will inherit one half of the estate to the extent that it is worth more than £250,000, divided equally between them.

All the children of the parent inherit equally from the estate, regardless of whether they are from the same or different relationships.

Children receive their inheritance on reaching the age of 18 or marrying or entering a civil partnership if earlier.

Grandchildren and great grandchildren
Children and great grandchildren only inherit under the intestacy rules if their parent or grandparent has died before the parent or grandparent. The grandchildren and great grandchildren inherit the share to which their parent or grandparent would have been entitled.

Other close relatives
If there is no surviving spouse or civil partner, children, grandchildren or great grandchildren, other close relatives may inherit under the intestacy rules. The order in which relatives inherit is as follows:

- spouse or civil partner
- children, grandchildren, great grandchildren
- parents
- siblings
- grandparents
- uncles and aunts

Exclusions
The intestacy rules make no provision for partners who are not married to or in a civil partnership with the deceased, regardless of whether they co-habit. Relations by marriage, stepchildren or stepparents, close friends and carers are also excluded.

No surviving relatives
If there are no surviving relatives, the estate passes to the Crown under the rules of intestacy. This is known as 'bona vacantia'.

Changing the outcome
As long as all the beneficiaries agree, an arrangement can be made which will allow the estate to be divided up other than as provided for under the intestacy rules, allowing someone who is excluded under the intestacy provisions, such as a stepchild, to benefit. This can be achieved by a Deed of Family Arrangement.

A person may also be able to make an application to the court under the Inheritance (Provision for Family and Dependants) Act 1975 if they were dependant on the deceased when they passed away but do not inherit under the intestacy rules, for example, an unmarried partner.

Compass are now able to offer a will writing service. Please contact us if this is of interest to you.

Tax Diary
October/November 2019

1 October – Due date for payment of Corporation Tax for period ended 31 December 2018
Making Tax Digital begins for the deferred group

5 October – Deadline to notify chargeability of Income Tax/Capital Gains Tax for 2018/19

7 October – Deadline for VAT returns and payments of Accounting Quarter period ending 31 August 2019

14 October – Income tax due date for CT61 period to 30 September 2019

19 October – Monthly deadline for postal payments of CIS, NICs and PAYE to HMRC

22 October – Monthly deadline for electronic remittance of CIS, NICs and PAYE to HMRC

31 October – Deadline for postal submission of Self Assessment tax returns for tax year ended 5 April 2019 to be received by HMRC

1 November – Due date for payment of Corporation Tax for period ended 31 January 2019

2 November – Deadline for submitting P46 (Car) for quarter ending 5 October 2019

7 November – Deadline for VAT returns and payments of Accounting Quarter period ending 30 September 2019

19 November – Monthly deadline for postal payments of CIS, NICs and PAYE to HMRC

22 November – Monthly deadline for electronic remittance of CIS, NICs and PAYE to HMRC

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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