Viewpoint Accountants

CORONAVIRUS NEWSLETTER

Edition 15 - 01 June 2021

Welcome to the Coronavirus tax newsletter. This newsletter is designed to keep you informed of the latest Coronavirus related tax issues.

We hope you enjoy reading the newsletter; remember, we are here to help you so please contact us if you need further information on any of the subjects covered.

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BEWARE MINI-UMBRELLA COMPANY FRAUD

HMRC are urging businesses to look out for the use of mini-umbrella companies (MUCs) to pay contractors supplying their labour via agencies and other intermediaries. Businesses need to be aware of the financial and reputational risks of such entities in their labour supply chain and carry out due diligence to minimise those risks.

You may have heard a BBC File on Four radio programme that highlighted the abuse of the £4,000 employment allowance by 48,000 companies set up to take advantage of the allowance to save employers national insurance. Such structures are also being used to avoid VAT and are currently being marketed as a means of side-stepping the "off payroll" working rules.

HMRC have identified criminals creating a series of MUCs that appear unconnected and claiming the NIC employment allowance of £4,000 for each company. The company is then struck off after about 18 months allowing the criminals to potentially avoid paying thousands of pounds of employers' NICs.

The risks to end user organisation include becoming liable for unpaid taxes and national insurance contributions including the overclaimed employment allowance.

The business may also be denied the right to claim input tax if the trader should have known their transactions were connected with VAT fraud.

They may also be penalised for criminal offences relating to national minimum wage and national living wage. The business may also face fines for failure to prevent the criminal facilitation of tax evasion.

Please contact us if you would like us to assist you in carrying out due diligence into your labour supply chain to minimise these risks.

CAR BENEFIT REDUCED WHERE UNAVAILABLE

P11d forms reporting benefits in kind provided to employees and directors need to be submitted to HMRC by 6 July. Where a company car is "unavailable" for private use for 30 or more consecutive days the benefit is proportionately reduced.

During the various lockdown periods many employees and directors have not been using their company cars and it may have been sitting on their driveway. Unfortunately, that does not count as being unavailable.

HMRC have confirmed that they would continue to regard the car as available to the employee unless the keys or fobs are returned to the employer or to a third party such as the leasing or disposal company as instructed by the employer.

Note that where the employee is provided with a motor car with zero CO2 emissions there is no taxable benefit in kind for 2020/21 although the charge increases to 1% of original list price for 2021/22.

REIMBURSE PRIVATE FUEL BY 6 JULY TO AVOID FUEL BENEFIT

Another consequence of the lockdown periods is that employees may have driven fewer private miles in their company cars, particularly where they have not been driving to the office.

If they are to avoid being taxed on the provision of private fuel they need to fully reimburse their employer for the cost of private fuel by 6 July 2021 for the 2020/21 tax year.

Note that the CO2 emissions percentage for the car is multiplied by the £24,500 notional list price used to calculate the benefit. For example, a director driving a Mercedes Benz E200 saloon company car (CO2 emissions 169g per km) would be assessed on 37% = £9065 for 2020/21. If they are a higher rate taxpayer then that means £3,626 tax. That would be an awful lot of private fuel!

In addition to the tax payable by the director on the provision of private fuel there would be £1251 Class 1A national insurance contributions payable by the employer.

Note that the private fuel benefit is an all or nothing benefit. There must be full reimbursement by 6 July to eliminate the benefit. The simplest method would be to multiply private miles by the HMRC advisory fuel rate for the vehicle.

These are the suggested reimbursement rates for employees' private mileage using their company car from 1 June 2021.

Where there has been a change the previous rate is shown in brackets.

Engine Size	Petrol	Diesel	LPG
1400cc or less	11p (10p)		8p (7p)
1600cc or less		9p	
1401cc to 2000cc	13p (12p)		9p (8p)
1601 to 2000cc		11p	
Over 2000cc	19p (18p)	13p (12p)	14p (12p)

Note that for hybrid cars you must use the petrol or diesel rate. You can continue to use the previous rates for up to 1 month from the date the new rates apply.

NOT ALL BENEFITS NEED TO BE REPORTED ON FORM P11D

Despite the coronavirus lockdowns HMRC still expect P11d forms reporting expenses and benefits to be submitted by the normal 6 July deadline.

Remember that reimbursed expenses no longer need to be reported where they are incurred wholly, exclusively and necessarily in the performance of the employee's duties. Dispensations from reporting are no longer required, although HMRC would expect internal controls to be in place.

Note also that trivial benefits of no more than £50 provided to employees need not be reported. This typically covers gifts to employees at Christmas and on their birthdays.

CHECK THAT YOUR SHARES QUALIFY FOR CGT BUSINESS ASSET DISPOSAL RELIEF

A recent case before the tax tribunal has confirmed that all of a company's shares are ordinary shares except those that carry a fixed rate of return.

This is crucial as CGT business asset disposal (BAD) relief requires a shareholder to be entitled to at least 5% of a company's ordinary share capital in addition to being an officer or employee of the company, and for the company to be a trading company or the holding company of a trading group.

These conditions need to be satisfied throughout the 24 months prior to the disposal of the shares. This two-year rule is important if you are considering transferring some of your shares to other family members now that only the first £1 million qualifies for CGT BADR.

There are a number of further conditions that need to be satisfied by the shareholding in addition to the 5% ordinary share capital test. The shareholder must have 5% or more voting control and be entitled to 5% or more of the company's distributable profits, and of its assets should be company be wound up. Those final two conditions do not need to be satisfied where the shareholder would be entitled to receive at least 5% of the proceeds on the hypothetical sale of the whole company.

This tends to be a problem area where a company has a number of different classes of shares.

If that is the case please contact us so that we can check the eligibility of different shareholders.

FURTHER INFORMATION & ADVICE

If you would like further information or advice about any of the issues raised in this newsletter then we would be delighted to hear from you.

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