

Mind the Gap

With the convergence of the main rate of corporation tax and the tax charged on small profits (those below £300,000), the impact of the marginal rate of corporation tax has diminished.

Year ended	Small Profits Rate	Marginal Rate	Maximum Marginal Rate Tax	Main Rate
31 Mar 2011	21	29.75	10,500	28
31 Mar 2012	21	27.5	7,800	26
31 Mar 2013	20	25	6,000	24
31 Mar 2013	20*	23.75	4,500	23

*assumed

Amounts are still not insignificant and so it is worth considering accelerating costs or delaying income to reduce profits chargeable at the marginal rate.

Examples of such adjustments include;

- Pension contributions paid over before the year end.
- Purchase of fixed assets.
- Acceleration of repairs and renewals programme.

Consideration of the marginal rate of tax should be part of any routine pre year end tax planning meeting.

Company Cars Revisited

Further to our article in Summer 2011 the number of cars meeting the 110 grams or less per kilometre (g/km) criteria and qualifying for 100 per cent first-year capital allowance have been increasing. I have provided some practical examples to illustrate that company car ownership, once rarely of benefit, should be considered by SME owners.

This low emissions limit has been achieved, for example, by the BMW 3 series within a diesel car and in the case of Peugeot by use of a diesel and electric mix. The diesel only option attracts a slightly higher benefit in kind 13% rather than the combination powered Peugeot at 10%. (There is also a £10,000 differential in price on which the benefit in kind is calculated.)

Purchase via the company allows the large fall in



value in new cars to be off set against profits. When the car has depreciated in value to a reasonable amount it can be bought back from the company and the familiar 45 pence per mile charged for company use. This eliminates the benefit in kind charge and attendant class 1A national insurance.

The private purchase of the car can be funded by a loan from the company, which if drawn in the appropriate month can be repaid to the company over 21 months at a very favourable interest rate of 4%. Of this payment 20% or an effective interest rate of .08% will be paid out of the company as corporation tax, with the company retaining the remainder.

It is now worth a quick chat with your accountant next time you are considering a new car.

Relief up on R&D Spend

Currently the tax relief on allowable R&D costs is 200%, this rate was increased further to 225% from 1 April 2012.

You can only claim under the scheme if your company meets the definition of a SME. A SME is defined as a company with fewer than 500 employees and either of the following:

- an annual turnover not exceeding €100 million
- a balance sheet not exceeding €86 million

A company can only claim for R&D Relief if an R&D project seeks to achieve an advance in overall knowledge or capability in a field of science or technology through the resolution of scientific or technological uncertainty. In addition the project must be related the company's trade, either an existing one, or one that is intend to start up based on the results of the R&D.

Dispute Resolution

Disputes between businesses are a fact of life. Where disputes arise a business should look to its legal advisors to provide a pragmatic and as importantly cost effective means of resolving that dispute. The worst thing that a business can do is to say to its legal advisor that the dispute concerns "a matter of principle". The only principles that should matter are; the financial impact of the underlying dispute, the potential to incur legal costs and the lost time that will flow from preparing for any Court case.

Where even a basic defence is filed it will take at least 12 months before the Court issues its ruling. Even this judgment itself is only half the battle as thereafter that Order needs to be enforced by yet further separate enforcement proceedings. During this period the financial circumstances of the Defendant, which you will have checked at the outset to ensure that they will be good for the money, may have changed and all the hard work and considerable costs expended in vain.

Swift resolution must therefore in nearly all cases be the aim. No legal advisor will tell you that you have 100% chance of success, consider the merits of the case and the other implications and engage the other party in early settlement ("without prejudice") discussions.

The small claims division of the County Court deals with cases worth less than £5,000, with the successful party unable to claim cost against the loser, it is seldom cost effective to seek to instruct a solicitor to act. Where you may see value however is instructing a solicitor rather than debt collection agency to apply the initial pressure in correspondence.

Even where a solicitor has not been able to secure payment via correspondence there may still be merit in retaining their services in an advisory capacity with the Claimant issuing proceedings themselves and seeking guidance from the professionals at key stages of the case.

In reality most solicitors who "go on the record" will appear far from cost effective in relation to any claim



which falls within the County Court's general jurisdiction of £50,000. Alternatively, a party can perform some of the administrative functions required. Value for money may still be achieved where a solicitor is advising on merits. While settlement is desirable this does not mean that proceedings should be discounted. Often a dual approach of swift and tough action where you carry out your threat to instigate proceedings promptly coupled with a without prejudice offer providing a way out for the other party on terms, yields the best results. Throughout the process you should remain focussed to ensure a positive outcome.

To discuss how you can make the litigation process work for your business please contact Stephen Baylis of Parisi Solicitors Limited on 01904 744674.

Changes to EMI

The budget announced two important intended changes to Enterprise management Incentives (EMI). EMI's are to be amended so that members will be eligible for Entrepreneurs Relief. EMI is the main scheme for issuing shares to employees of a company. This is a major change as previous legislation had blocked employees with less than 5% control of the company from enjoying Entrepreneurs Relief. This means that gains will be taxed at 10% rather than 28% as was the case.

In addition the maximum value of shares over which an individual may hold EMI options will be increased from £120,000 to £250,000.

These changes will apply to EMI options granted on or after the date stated in the statutory instrument, but it is subject to State aid approval so the effective date is still uncertain.